



CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Thursday, the 22nd October, 1953

OFFICIAL REPORT

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CONSTITUENT ASSEMBLY OF PAKISTAN

Thursday, the 22nd October, 1953

The Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Eleven of the Clock, Mr. President (the Honourable Mr. Tamizuddin Khan) in the Chair.

REPORT OF THE BASIC PRINCIPLES COMMITTEE—*contd.*

Mr. President : We resume further consideration of the following motion moved by the Honourable Mr. Mohammed Ali on the 7th October, 1953 :—

“That the Report of the Basic Principles Committee be taken into consideration.”

Mr. Abul Kasem Khan (East Bengal : Muslim) : Sir, yesterday, I concluded my speech by saying that we are committed to Democracy and it is too late in the day to turn back. Democracy is on trial not only in this sub-continent but throughout South-East Asia—in countries like Indonesia, Burma, Bharat and Pakistan. Many people are watching anxiously whether Democracy is really going to take roots in these strange countries where poverty is so great, illiteracy is rampant and where conventions hardly grow. Sir, apart from political consideration, we should at least by our own efforts make conditions congenial for the growth of democratic institutions. We had a little training in democracy under the British and that should stand us in good stead as compared to other nations which did not have training in that limited sense. But, Sir, the most important condition precedent for the success of Democracy is enlightened public opinion which does not unfortunately exist in our country. Enlightened public opinion can grow only when literacy is widespread amongst the people. As my honourable friend, Dr. Omar Hyat Malik, suggested yesterday that whenever there is a financial crisis and whenever there is any difficulty, education becomes the first casualty. We have made no efforts to educate our people. The percentage of literacy is no more than 10 per cent. in the whole country. So, how can you expect that there would be enlightened public opinion, informed on all matters of vital interest to the nation? Sir, I hope the future Governments will take good care to see that spread of education is ensured. My honourable friend also pointed out that in many constitutions of the world they have made education compulsory up to a certain stage, by providing a definite provision in the Constitution—not by simple legislation.

Sir, another very important safeguard of Democracy is fair and free election, as has also been pointed out by my honourable friend, Dr. Omar Hyat Malik. Democracy becomes a mockery where there are no fair and free elections. After all, what is Democracy? It is the expression of the sovereign will of the people. If you put fetters on their will of exercising their sovereign right of choosing their representatives—because all of them cannot come and sit in this House—you are cutting the very roots of Democracy. That is another matter which should be borne in mind with regard to future.

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The other safeguard is an independent Judiciary. That, in the ultimate analysis, is a very great safeguard of Democracy. Sir, I shall come to that aspect later on when I shall deal with the subject more fully. But, these to my mind are the three fundamental safeguards of Democracy : Literacy ; free and fair elections and an independent Judiciary. We must exert ourselves in all possible ways to see that these three things are ensured to our people if we really believe in Democracy.

Sir, I now come to the consideration of the Report itself. I am afraid the authors of the Report have come in for a good deal of criticism in this House as well as outside. Sir, I would not like to indulge in any irresponsible criticism because I realise the complexity and the difficulties of the task which was before them. But, Sir, at the same time I cannot help making remarks that they have gone far beyond the term of reference. What was the term of reference ? The term was this : " This Assembly resolves that a Committee consisting of the President and the following members be appointed, with powers to co-opt not more than ten members to report as early as possible on the main principles on which the Constitution of Pakistan is to be framed." Now, have the members of the Committee confined themselves to the main or basic principles of the Constitution ? I am sure anybody who has gone through this report will agree with me that they have made no attempt to confine themselves to the basic principles. They have gone into the minute, details like what should be the form of the oaths ; what should be the directive principles of State policy ; what should be the constitution of the judiciary ; how the judges are to be recruited ; what should be the composition of the Public Services Commission, and things like that, which are not fundamental principles of any constitution by any stretch of imagination. I want to know what led them to go into the morass of all these details which should have been left for the drafting committee. Sir, this report consists of 254 Articles. The Constitution of Canada consists of 147 Articles, Australia of 128, South Africa 152, France 106, new Constitution of Italy 139, Sweden 114 and of the United States of America of 7 articles only, with 21 amendments in 166 years. The only departure from the brevity of the constitution has been in the case of India (Bharat). Bharat has copied Government of India Act copiously and the Government of India Act as my honourable friends in this House know was not meant really for a free and independent nation. It was really meant for a slave country and it was meant for binding the successive future generations of the nation because our masters did not have confidence in us as free and independent nations should have in their future generations. That is the reason why they took such great pains to lay down everything in detail otherwise there was no justification for it. It was such a prolific document. We have also copied the Government of India Act, in this report. Sir, most of it is based on the Government of India Act but that is no criticism and I agree with Dr. Ambedkar when he replied in the Indian Constituent Assembly that no constitution in the world can be original today after so many attempts have been made at constitution making in the many independent countries of the world. There cannot be any attack on this report on the basis of lack of originality. But, Sir, our friends wanted to chalk out a new path for our country, why did they rely so much on the Government of India Act and why they did not leave all the matters of detail for the drafting committee. I for one do not see anything now left for the drafting committee. After all the draft that

has been presented to us consists of 254 articles and when we have spent so much time in detailed examination of the provisions, where is the need for a drafting committee which will sit for another 6 or 8 months and then submit its report and this House will be deliberating the report of the Drafting Committee for another 6 to 8 months and then it will be passed. That will be sheer waste of time. This committee has really usurped the functions of the drafting committee.

Sir, I now come to the consideration of the provisions of the constitution. That our constitution has to be federal as opposed to the unitary form is again dictated by geography. I know the pundits of constitution-making are now favouring a unitary system of Government as opposed to federal and our next door neighbour Bharat has adopted really a unitary Government or constitution, under the guise of a federation.

Anybody who goes through the constitution of Bharat today will be convinced that it is a unitary in reality. Most of the provisions are of the nature which we find in unitary constitutions, though they have given the name of a federation. But that cannot be done here because of obvious reasons as I stated our country is divided into two parts. We are committed to a federal form of Government and this is only just as it should be.

Sir, our constitution has to be parliamentary as opposed to presidential is also tacitly assumed. As it is assumed that all our training in the art of self-government in the past has been on the lines of parliamentary Government, therefore this system suits us though I know some of my friends in this House and especially our Ulema favour the presidential system as opposed to the parliamentary system, because they say it is more akin to the Head of the State in the Islamic constitution, *viz.*, the powers and functions of the President. But, Sir, I think that would be a big departure from the form of Government, we have been encouraged to adopt and we have been trained in during the last 50 or 60 years by the British. So I think we have to adopt the parliamentary system of Government.

Now, Sir, the most important and the most controversial provision in the report is the distribution of powers,—the quantum of representation in the federal Legislature given to various units. The last two formulas, the first one in the first Report of the Basic Principles Committee and the second one as contained in this Report have been discarded. The last one contemplated parity of representation in both Houses with the main powers in the Lower House; money bills and such other matters were to be considered by the Lower House only. We have discarded that formula for a new one and I believe this formula has found general acceptance in the country. It seems to have satisfied both wings of the country and I think rightly the Prime Minister has been complimented on the success that he has achieved in finding a formula which is acceptable to the great majority of our people. Apart from the merits or demerits of the formula, I must say that it has achieved a great object in resolving the deadlock which was impeding all our efforts in constitution-making for the last two years or so. That in itself is a big achievement. Sir, I personally think that all these provisions for checks and balances are based on a good deal of mistrust and misapprehension in our minds. I do not believe that this provision of 30 per cent. of votes from each wing will be very much invoked. It may be invoked very rarely because I cannot conceive of problems coming before the national parliament on which members will be asked to ventilate their views and give their decisions from the provincial point of view. I

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have been a member of this House for the last six years, may I ask my honourable friends if there was any occasion in the last six years when we were called upon to look at any bill or any proposal from that narrow provincial point of view? So far as I remember there was no such occasion and I do hope in future also there will be no such occasion when members will take provincial lines or will vote on provincial basis because if it happens in this way then that day will be a bad day for Pakistan. After all, Sir, parties are not formed on Provincial basis. We have several parties even with few members here in this House but none of them claims that they are formed on provincial basis. So none of them is constituted on provincial basis. They are all based on ideology or on social programmes or whatever other programmes they might have before them. Sir, be that as it may, but the fact remains that there is mistrust and misapprehension. What are you going to do about that? The only solution to my mind is the developing of a national outlook without which this Nation cannot survive. In almost all matters, apart from those which are local, we must try and develop the national outlook, if we say and mean that we are one nation. If some of us think we are not one nation, we have nothing to do with them. We could not stay in Bharat because we said we are two nations and that is why we have another country, an independent country, Pakistan, which claims to be one nation. If in this one nation, the majority community, and also one which forms the Government, in whose hands are entrusted the destinies of future generations of Pakistan cannot behave and look at national problems from the national viewpoint, what is the future of the country. So, I say, Sir, the biggest challenge to our statesmanship, to our intelligence is how to develop a national outlook, and a national outlook can come only through a national leadership inspired by the broadest ideals of national outlook in all matters. Sir, without a national leadership which is free from bias, free from prejudices and which is prepared also at the same time to meet out justice to all units, big and small, to all the provinces, even to all the communities, there is no hope for this country. That national leadership is the pre-requisite of our existence and if we achieve that national leadership, then and then only, we will be laying the foundations of a great nation which can blaze out a trail of achievements for our people. That was supposed to be the dream of our Quaid-i-Azam; that I think, was the dream of millions of our humbler people who made countless sacrifices for a glorious Pakistan. And that leadership should really be worthy of the nation. The nation is awaiting anxiously for the national leadership.

Sir, now I come to the consideration of the Islamic complexion of our Constitution. Here, Sir, I am at a disadvantage, I must admit frankly, that I am a layman having no pretensions to any deep knowledge of *Dinyat* or Islamic Law, but, Sir, I have a right to speak as one of the countless Muslims, not very well versed like my honourable friend Sardar Abdur Rab Nishtar in the Islamic knowledge, but, as one of the countless Muslims, who are brought up in Muslim homes. Sir, we have very deep reverence for the Holy Quran and the Sunnah. I also know that it is a common ambition of all Muslim parents that their children should be brought up as good Musalmans in the light of holy Quran and the Sunnah and that they should be enabled to live the life of good Musalmans. Sir, no one can have any quarrel with

that provision that the Musalmans should be enabled to live their life as Musalmans while admitting that other communities should also be enabled to live or order their own lives in the light of their own religion. I don't think there is any question of discrimination that arises here. But, Sir, I feel encouraged to think—I may be wrong—that Islam lays very great stress on the equality of man and brotherhood of man and that is the new gospel that Islam gave to the world when our Holy Prophet came with a great message for the backward people of the time. This, equality of man, was a new gospel of truth which was lacking in the society of those days and which spread like a wild fire. It is absolutely false to say that Islam spread by the force of the sword; that theory had been exploded long ago. Sir, as for the equality, I think, Islam is the one religion—and it is admitted by many others—that has given a practical interpretation to the idea of equality of man. Toleration, Sir, is admittedly another corner stone of our faith. Islam stresses toleration very often in several places. Sir, dogmatism and ritualism which form such a great portion of all other religions have not penetrated our ranks to the same extent in Islam. In the case of our religions, I should not say that dogmatism and ritualism has not penetrated our ranks at all. There is a good deal of dogmatism and ritualism in our midst now. But Islam does not encourage that; Islam does not also encourage a clerical order to act as intermediary between a man and his Creator. So also theocracy is unknown to Islam. The responsibility of the individual has been very much stressed in Islam. So, Sir, we are not going to discriminate against our minorities. I do not think that they can take any serious exception to that provision of Chapter III of Part II, which lays down “no legislature should enact any law which is repugnant to Holy Quran and the Sunnah”. I am sure, there is no intention to interfere with their personal laws; there is no intention of interfering with their religion. As we have promised to our people that we are going to build up an Islamic State, this to my mind appears to be the most fundamental provision that we should not pass any law which runs counter to the provisions of the Holy Quran. I think, our minorities should have no misgivings on account of this provision because there is no intention of discriminating here. Sir, at the same time, I am not much in favour of introducing some mere verbiage to give an Islamic complexion to our Constitution without making a conscious and determined effort to secure the real Islamic spirit and the substance of Islam, to them. We have preached from many platforms and the Press that we want to give the people Islamic sociology, which means certainly a better distribution of wealth in the country. But, have we made in the last six years any conscious effort to secure to our people the benefits of a better distribution of wealth in the country? Not to my knowledge. Are the people going to be happy and contented when we simply tell them that we are going to give them an Islamic State: we are going to give them an Islamic Head of State. But I can tell you that the people will not be satisfied if we fail in securing for them the substances of Islam, the substance of freedom, the substance of existence without which it would be futile for us to expect that we can offer them an ideology which is better than capitalism on the one hand and communism on the other. If we really believe that we mean to give the world a higher and better ideology, that ideology will have to be based on the fundamental principles of equality, equality of opportunity, equality in many other respects. Sir, I want to stress that aspect very strongly.

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Now, Sir, I come to the consideration of the distribution of some of the powers as envisaged in the report. I see that the Head of the State has to act in most cases on advice and this is correct because our Head of the State is going to be an ornamental figurehead and only in two or three well specified cases, he can act on his own discretion and one of the most important of them is in the matter of election. In the matter of appointment of the Election Commissioner and Election Tribunal which is very important. My honourable friend Dr. Omar Hayat Malik was suggesting some measures for securing the benefit of this provision more fully. But to my mind the provisions are quite sufficient. Sir, I am reading from article 234, sub-clause (2): It says :

"The Election Commission should consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the Head of the State may, in his discretion from time to time, fix and the appointment of the Chief Election Commissioner and other Election Commissioners should, subject to the provisions of any law made in that behalf by the Federal Legislature, be made by the Head of the State in his discretion."

Then there is another provision in clause (5) also. That :

"Provided that the Chief Election Commissioner should not be removed by the Head of the State from his office except in like manner and on the like grounds as a Judge of the Supreme Court."

That I think should have satisfied my friend and there is a further provision :

"Provided further that any Election Commissioner or a Regional Commissioner should not be removed from his office except on the recommendation of the Chief Election Commissioner."

I think these provisions are very wholesome. As I have said before there should not be any interference with free and fair elections which are *sine qua non* of democracy and the Government of the day however powerful should have nothing to do with the election—with that side of the election where any influence can be brought to bear upon the voters. This is very important.

Sir, another great citadal of democracy as I have said before is an impartial and independent judiciary. One of the main safeguards of democracy is again the "rule of law". All democratic countries have been aiming at achieving the rule of law. Well, in our country also and I think, the British, we must give them some credit, tried to establish the rule of law in a limited sense. The rule of law means equality before law and the supremacy of law. Sir, it is only through an independent and impartial judiciary that you can ensure the rule of law in the country. Without the rule of law, nobody feels secure as my honourable friend again quoted some instances yesterday to demonstrate that aspect of democracy when he quoted a story of Frederick the Great and also of our Great Caliph Umar when he appeared before an ordinary court. The rule of law is really a very fundamental principle and without that no democratic institution can survive long and that you can achieve only through a fearless and impartial judiciary. Sir, we must pay our judges well because we expect that the best of the lawyers having very lucrative practices should be attracted towards judiciary. If we pay the judges less, no good lawyer will be attracted. I am even prepared to extend the tenure of their service up to the age of 65. But, Sir, we must take good care that after the retirement, there may be no allurements for them: that there should be no scope for

their further employment in Government service so that during the tenure of their service, they may not be tempted even unknowingly in their sub-conscious region that if they please the Government of the day, they may expect something after retirement. That is to my mind a very important provision. I agree generally with the other provisions in the Chapter on Judiciary. But I would like to say another word that the separation of Judiciary from the Executive is very important. That is the demand of the people for many years and this is high time now that we should separate the Judiciary from the Executive so that there can be no interference whatsoever by the Executive with judicial decisions. Every Honourable Member of this House knows of instances in their own district or area where the Executive have tried successfully or unsuccessfully to impose its will on the judiciary and the result has always been disastrous, if not apparently I should say morally.

Sir, I come to another provision of this Report. I am afraid, Sir, before I finish this subject, I want to say a few more words regarding the Judiciary. I see of late some opinion growing amongst ourselves that the judiciary should be given the right of vetoing the laws made by the Supreme Legislature of the country. On principle, I am opposed to giving an organ of the Government a power which does not really belong to it. The power of making law belongs exclusively to the Legislature and it should rest with it. I know, Sir, that the judges both in this country, and in America and United Kingdom have been contributing to law-making either under the guise of interpreting the common law or under the guise of interpreting other statutory provisions of the Constitution or other laws.

Sir, I know of no country where this power of law-making, this power of vetoing the law, has been expressly given to the judiciary. So, purely as a student of constitutional law, I am opposed to the idea of giving the right of veto to the Judiciary. That will open the gates of controversy quite wide and there will be no end to it.

Mr. Abdullah al-Mahmood (East Bengal : Muslim) : Do you mean to say that the Supreme Court should not be given the power of interpreting the Constitution ?

Mr. Abul Kasem Khan : I am afraid the Honourable Member has not understood me. It is no doubt true that the judiciary in every country has got the right of interpreting the law, whether constitutional or other law, but no country in the world has given to the judiciary the power of veto for exercising the right of vetoing the law. I may be wrong, but I stand subject to correction. This is the country which is giving the Judiciary the power of vetoing its Constitution. Do you not think that the Legislature is supreme as it should be. Judiciary is nothing but the creature of the Executive, and what is the Executive ? The Executive is again the creature of the Legislature.

Chaudhri Nazir Ahmad Khan (Punjab : Muslim) : So, do away with the Judiciary ?

Mr. Abul Kasem Khan : My honourable friend is such a renowned lawyer. I never say : Do away with the Judiciary. You will find, Sir, that in the last analysis, it is the Legislature which is supreme. The executive is the creature of the Legislature and the Judiciary is also the creature of the Executive.

Mr. President : Is the Honourable Member referring to any particular provision in the B. P. C. Report ?

Sardar Abdur Rab Khan Nishtar (Punjab : Muslim) : Will the Honourable Member be satisfied if he is shown that there is in every country a written constitution that the Judiciary has got the right to nullify any Act which is against the Constitution.

Mr. Abul Kasem Khan : I stand subject to correction. But that does not meet my objection.

Mr. Ghyasuddin Pathan (East Bengal : Muslim) : It will be convenient if my honourable friend will tell us to what clause is he referring ?

Mr. Abul Kasem Khan : That is my opinion that the Judiciary should not be given the right of vetoing legislation. I say this on principle.

Mr. President : The Honourable Member should try to confine himself to the Report.

Mr. Abul Kasem Khan : Sir, I am trying reply to my honourable friend Mr. Abdulla al-Mahmood.

Sir, power should be given to the Highest Court in Pakistan for interpreting the constitution but it should not have the right of vetoing the constitution.

Now, Sir, I have done with the Judiciary. I come to the consideration of another very important provision in the Constitution. To my mind our Constitution should be rather flexible. Unlike most of the written Constitutions in the world,—like the Constitution of the United States of America, of Australia, and most of the countries which have written constitutions which are rigid. A rigid constitution will not suit our purpose. Constitution-making in this country, to my mind, is going to be in the nature of experimentation for the next 15 or 20 years. We are trying to find a constitution which will suit our requirements and therefore there can be no finality. That is one consideration. It will be useless and futile on our part to attempt a rigid sort of constitution straightaway and bind down our future generations.

Chaudhri Nazir Ahmad Khan : That is the very idea of a constitution.

Mr. Abul Kasem Khan : And that is the reason why it should be flexible. I am going to quote a passage from the Select Constitutions of the World, a treatise written by our Secretary, Mr. Ahmad. The passage occurs at page 434 in the SELECT CONSTITUTIONS, OF THE WORLD, by Mr. M. B. Ahmad :

“That American Constitution gave a blow to the traditional theory of the immutability of the fundamental laws of government and to recognise, like other human institutions, the evolutionary character of the Constitution and the necessity of its amendment from time to time. The fathers of the American Constitution considered each generation as a distinct nation, with a right by the will of the majority to bind themselves, but none to bind the succeeding generations more than the inhabitants of another country. The attitude of Jefferson, who fathered democracy and republicanism in the U.S.A., is set out in this regard in a famous letter to Samuel Karcheval of July, 1816. He says :

‘Let us (not) weakly believe that one generation is not as capable as another of taking care of itself, and of ordering its own affairs. Let us..... avail ourselves of our reason and experience, to correct the crude essays of our first and inexperienced, although wise virtuous and well-meaning counsels. And lastly, let us provide in our Constitution for its revision at stated periods. What these periods should be, nature herself indicates. . . .’ ”

Mr. President : Is the Honourable Member about to finish ? He has already taken one hour.

Mr. Abul Kasem Khan : I will take another ten minutes more.

Sir, the American Constitution consists, as I have already said, of seven Articles and 21 amendments have been passed in the last 166 years. That proves positively that the American Constitution has stood the test of time.

The provisions made in the Basic Principles Committee Report in regard to amendment of the Constitution are contained in article 254. They lay down certain procedure for carrying out more important constitutional amendments. This procedure is difficult and cumbersome and I think it should be revised. It is also incomplete since they have not indicated what are the matters which will come under this particular Article 254 where they have tried to make amendments more difficult than in other cases. Sir, to my mind, a simple rule of two-thirds majority of the members of the House should suffice for carrying through amendments of this constitution.

Sir, I want to make another point. We have already imported a certain amount of rigidity in our Constitution by the new formula of 30 per cent. This certainly imports an amount of rigidity in our Constitution. Why make it more rigid when you have already imported a certain amount of rigidity in the Constitution ? These are my arguments in favour of the flexible constitution.

Sir, the Report is incomplete on another very important matter and that is the financial allocation between the Centre and the Provinces. That is a very important matter and we should like to see a complete picture of the allocation of revenues between the Centre and the Provinces.

Another matter I like to stress upon is that the Report has provided for leaving residuary powers with the Centre. I am opposed to it. I like the idea of leaving the residuary powers in the Units and I am going to give my reasons for it presently.

Sir, I am very much in favour of a strong Central Government. I know that this country cannot survive without a strong Central Government. I am all for making the Centre as strong as possible, but, at the same time, I am opposed to giving powers to the Centre on matters of detail, on matters of zonal interest and importance. Due to the great distances, due to the differences in many cases, those matters of detail should be left to the Provinces.

Sir, in the Constitution of the United States of America, the residuary powers were left to the States and the reverse was the case with the Dominion of Canada. What has been the result ? The result has been that in the United States of America by judicial decisions over a long period of time, more and more powers were sought to be given to the Federal Government and exactly the reverse process took place in Canada where provision was made for leaving the residuary powers to the Centre. In Canada the judicial opinion has favoured of late and for many years now that more and more powers should be given to the Provinces.

Sir, I think as the Honourable Mr. Nurul Amin said the other day, we are committed to a certain amount of Provincial autonomy, and

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if we now say that we will leave our Provinces as merely glorified district boards, that will be going back on our words, that will be hampering the efficiency of administration and that will be the cause for raking up provincial jealousies. As I pleaded for national leadership, or for national outlook, so also I plead in the same breadth that matters which are not of national character but belong to the spheres of the Provinces should be left to the Provinces, so that there may be no bickering on this score. The Central Government should be efficient, stream-lined and powerful enough to deal with the subjects which are entrusted to it in an efficient manner. Sir, I have almost finished.

In supporting the motion before the House, Sir, I make a last submission. We are making this Constitution not for one Party, not for one Province, but for all parties, for the entire country and for future generations. Let us remember this and attempt to achieve something which is really difficult, I mean a good constitution. We must keep our minds free of prejudice; we must approach the subject with an open mind and without any mental reservations. Sir, I hope and pray that Almighty God will guide our steps, will give us a clear vision and breadth of mind. Burke has said, "Great Empires and small minds go ill together". We should do well to remember this.

If we are laying the foundations of a great country, we must rise above petty jealousies, above parochial outlook, above petty factions, and approach the task in all humility with an unprejudiced and open mind. May God help us.

Mr. President (*addressing Mian Muhammad Iftikharuddin*): Before you begin, I would like to make one announcement. The House is aware that our progress hitherto has not been very satisfactory. Everyone of us desires that we should be able to make better progress henceforth. It has been decided with the general agreement of the different sections of the House that from tomorrow we shall sit from 10 a.m. till 1 p.m. in the morning. In the afternoon instead of at 4-30 p.m. we shall sit at 6 p.m. and continue till 8.30 p.m.

Sardar Abdur Rab Khan Nishtar: Tomorrow is Friday. I do not think we will be able to observe the same hours tomorrow.

Mr. President: Fridays are, of course, excepted. As far as today is concerned, Mian Saheb is now going to speak. I hope as far as to-day's sitting is concerned, the House will agree to sit till 1.30 p.m. to allow Mian Sahib to finish his speech.

Yes, Mian Iftikharuddin.

Mian Muhammad Iftikharuddin (Punjab: Muslim) *Sir, I first congratulate the Party or the Group in majority in this House on choosing this opportune moment from their point of view for bringing forward these proposals. Sir, you know that the State of Pakistan to-day is such that it is not only proving to be a cause of worry to the people in this country, but those who are at all interested in international affairs or in the affairs of the people—88 million people—feel that something is wrong with the State of Pakistan with a large number of people in jail; in fact I would not be wrong in saying that we have, in over a period of 8 months that have passed, a greater number of Muslims—because we are talking of a Muslim Constitution—a greater number of

*Speech not corrected by the Honourable Member.

Muslims in jail than there has been at any period in British history, except perhaps on two occasions—one in 1857 and one in, Sir I stand corrected on that, unfortunately Maulana Akram Khan is not here—but the second occasion was during the time of Khilafat Movement. These two occasions apart, I do not think even in United India there has been ever a period of 8 or 10 months or a year when there were greater number of Muslims in jail than we have in Pakistan today. I do not think after the black famines known in the history in the Victorian period and after the famine in Bengal during the war period, I do not think, at any rate, in any peace period in those areas which today constitute the State of Pakistan, in those areas in any peace time, we ever had such disturbing situation to face so far as food is concerned, so far as clothing is concerned, availability of general articles of necessity are concerned. I do not think those areas, I repeat, which constitute Pakistan today have had to face such a difficult situation at any peace time for some decades, at least in this century. Sir, in these circumstances, when the Nation feels today more frustrated than it did even during the British period, at this period when the Nation feels that all their hopes and efforts have proved to be fruitless, at this stage when they have lost interest in everything and they feel there is, perhaps, hardly any hope of saving ourselves, at this time these people, the people who constitute the majority in this House, have brought up this Constitution. I compliment them on their sense of opportunism. No nation, and least of all this Nation, which won Pakistan on an ideological slogan, could have tolerated the acceptance of such a Constitution that has been presented to us today. Why was this Constitution not presented earlier ?

After Pakistan, as time passed on, even the massacre of 1947 failed to damp our spirits, but as time passed on, as Administration deteriorated, as the economic condition deteriorated, as political life became more corrupt, the people began to lose interest in politics, people began to lose interest in what they had achieved, people began to think even in the terms whether all those sacrifices and all those efforts were worth the candle. Sir, under these circumstances, you can well imagine that there is no voice—no effective voice—today raised against the atrocious proposals that we are discussing today. It is really a unity of the rulers against the people. It is really a decision of the rulers to betray the interests of the people. The unity that was achieved a fortnight ago is not the unity of the people ; it is the unity of the rulers. The unity of the rulers at this stage was necessary because, as I was saying, they could very well delay the bringing of a Constitution to their own advantage, because they thought—and they rightly thought—that nobody could accept such a Constitution. Therefore, they delayed, and they also delayed because they thought that if they delayed the framing of a Constitution, they will be able to stay on longer in their seats of office. But today a situation has arisen when on the one hand people have lost faith in their leadership and on the other their own differences assumed proportions whereby they felt that they may disrupt themselves—the state they do not mind—but they may disrupt themselves and thereby disintegrate themselves unless they come to an agreement, and this agreement is really the most unfortunate thing for the people of Pakistan in the future chart of Pakistan's history, where it will be written that on the 14th of August, was achieved independence and on such and such a date died the founder

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of this State ; it will also be written in that chart, amongst many other dates, that the 7th of August, 1953, was the date when the rulers united to betray the people of Pakistan, finding that the people of Pakistan had lost all interest in themselves and in their posterity. Sir, therefore, I feel that the voice—a solitary voice—that is being raised in this House against this Constitution—because, with due respect, I do not consider the people sitting on my left—to my immediate left—as a part of the active political life of the country yet—therefore, the solitary voice that is being raised today against the acceptance of this report is fully conscious that all this noise and all this talk, so far as I am concerned, is merely for a matter of record and is not going to provide any remedy, is not going to prove of any use for saving the country from this disaster, unless the people realising that now that the rulers have united and they have offered a constitution—whereby it is proposed to perpetuate their rule in this country—unless the people realise that their unity at this time—no leadership is there to lead them—but their unity and their spontaneous movement at this time can save them, I am afraid we will be accepting this Constitution, and the acceptance of this Constitution is, to me, putting a seal on the doom of this country. Sir, this Constitution has been put forward by a people, or by a group of people who are least worthy from any standard—and most of all I would say from Islamic standards, as we pretend to profess that faith—I say this group of people are least worthy to frame a Constitution for Pakistan. I happen to point out many instances of who are the people today framing the Constitution of Pakistan : people who were elected under the aegis of the British Crown and British rule seven years ago on a franchise, which gave the right of vote to only 14 per cent. of people and that too through indirect elections. We came here seven years ago under different circumstances and for different purposes and at that time there was just one consideration in the minds of the electors, and that was this : whether a particular person—be it for opportunist reasons ; be it for sincere reasons—was going to vote for Pakistan, for independence or not. This was the sole consideration. When we found some people in seats of power—feudal lords and the rest—we did not object to enlist their support even at the last moment. Those whom we considered to be amongst the four or five worst traitors of Pakistan, of independence, even those people—I talk of the leadership which was in power in the Punjab—even those people were approached, not days but even a few minutes before the achievement of Pakistan because the consideration was only one, namely, whether a vote could be secured for Pakistan or for independence or not. Those people were chosen, I respectfully beg to submit, under different conditions. Seven years have passed. Today we could easily have elected a new Assembly on full franchise, not on 14 per cent. but on full franchise ; today 100 per cent. of the adult male and female population could come forward and vote for the future Constitution of Pakistan and vote directly without going into the complications of representation, because the representation that today exists in this House would not have been unacceptable to our people if we can today with this representation sit and talk amongst ourselves : our people would not have objected if we had gone to them and asked them to elect in the same proportion once again, on full franchise direct elections, their new representatives. We have had two or three or four Reports before this Assembly and this would have given

them the best chance to come and give us their opinion but we have not done that. We could talk of corruption of officials, corruption of black markets and other things but could politicians be more corrupt? It is not merely a thanedar, a Police sub-inspector or an Excise officer who only could be corrupt. Our corruption lies in the field of politics and with respect to that, I ask you, Sir, and through you the public: could anybody, could a House, be more corrupt than we have been? Sir, only six months' history....

Mr. President: Order, please. You are not permitted under the Rules of the House to say anything derogatory to the dignity of the House. You have already done so. I hope you will withdraw your remarks.

Mian Muhammad Iftikharuddin: *I will not mention a word more about the constitution of this House. Now, Sir....

Mr. Shamsur Rahman (East Bengal: Muslim): He cannot go on unless he withdraws his remarks.

Mian Muhammad Iftikharuddin: *Now, Sir, the Government of Pakistan only six or eight months ago, we all know, was led by the then Premier, who had the full support of the Muslim League membership in the Council. The then Premier had the full support of his own Party in this House and a week later when he was removed neither the Muslim League was behind him nor the House.

Mr. President: Mian Sahib! again, you are irrelevant. This is the Constituent Assembly. This Assembly is to prepare the Constitution. Here, the matter that you are referring has no bearing on the constitution whatsoever. You are not relevant. You should have some regard to the fact that you have to say something about the Constitution.

Mian Muhammad Iftikharuddin: *Appropriate to ourselves the right of framing Constitution, to consider ourselves as the best qualified people to give a Constitution to Pakistan is a false claim—in fact, unjustified claim. This is all that I wanted to point out, and I will not labour on that point any more.

Now, Sir, I think this Constitution really is a victory of the slogan over the spirit, and when I say that what I mean is that we said that we would be giving to people an Islamic Constitution. Now, however, contemptuous may be the opinion of some people about those who are not well versed in Islamic law, I claim one right with all humility and I think that is a claim which can be put forward by any ordinary person with some sense, that is that we can all judge what an Islamic Constitution should be, because, Sir, to me it is very clear that Islam—let alone, Islam, no religion—could advocate the promulgation of a social order which would not really give happiness, the greatest happiness to the greatest number. I refuse to admit—in fact it is for those to come forward and say that there is an ideology in the world and that would be insulting their ideology to mankind if they come forward and say that according to their ideology, good of a section really has precedence over the good of a bigger and larger number of people. Sir, to me it is a simple test that if a law brings happiness to mankind, if a law leads to progress, if a law leads to peaceful existence of people in this world, that law to me is the best law and that law to me must be

*Speech not corrected by the Honourable Member.

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the most Islamic law that there should be. That is how I look at it and no small points and minor issues that may be brought up before any Assembly would influence me because I would say although on a certain issue it may have been ordained or said like this, but a bigger issue must have a precedence over a small issue, and the biggest issue to my mind is the good of humanity. When we talked and Mr. Liaquat Ali Khan, the late Prime Minister of Pakistan, talked in most eloquent terms, three years ago, when he moved the Objectives Resolution of Islamic polity, his speech made it very clear that it was going to give the world, not only to Pakistan, but it was going to give to the world, a form of democracy which would not be sham, but which would be real. What we understood by that was that it would be a democracy which would give the people not only the right to live freely, but also would create conditions for them to live freely, not only the right to vote, but also create conditions for them to vote freely. That was where we thought lay the difference between the type of democracy, the type of polity that we were going to put before the world—anyhow Mr. Liaquat Ali Khan thought—and the one that would have been known in the Western world before. I ask with due humility, have we done that? I think that we have really betrayed the spirit and we have used the slogan in order to catch votes. Constitution that has been given—I know that I am going to say something very horrible, but I will with all the risks that may be involved say so that actually however wrong, however much that may be on the British pattern, the Indian Constitution is democratic, is the basic concept of Islamic spirit. Even the Indian Constitution I would say, Sir, is more Islamic than the Constitution drafted by this House. Therefore, I think it is a day of great shame for the people of Pakistan that after all these long days of struggle and sacrifices, we have brought our people to such a pass and I feel I was saying sincerely—even one of us can get up and see that Indian Constitution, however, much on British pattern and undemocratic it may be as compared with the ideal constitution is more Islamic than the constitution that is being given by this Assembly to Pakistan. Sir, it may be asked, what is the best test of a constitution? With due respect I would beg to submit that there is only one test of Islamic constitution and that is the will of the people. You may say that the will of the people can be mistaken and I will fully agree with you. It can be mistaken and it cannot be mistaken even today and it may be mistaken even a generation later and a generation later, but, Sir, no ideology which is not a static ideology can really realize what it wants in a day. We were told that the great Allama who was amongst the first to conceive the idea of Pakistan, had said that Islam was not something that had been achieved, but that Islam was something that was in the process of realization. Therefore, to me it is a very simple thing that if somebody comes forward and says that mosques will not give you an Islamic principle, I am not going to be perturbed. Let us make more effort, if it is like saying that the patient is not getting well, his arm is yet too weak, his legs are yet weak. Let us give those legs, chop off the arms and let us put others knowing that he will be dead by them and those arms will be useless, the best way is to go on strengthening the same patient because it is the people that we are dealing with. No section of ordained priests can come forward and claim that they are the best judges of Islamic constitution.

Sir, to take only the example of recent history, I think even the lowest type of political worker, honest political worker, anti-Imperialist political worker was more right than our respected Ulema in the field of politics. Sir, in the last 200 years which section of the people proved themselves to be the biggest pillars and source of strength to the Imperialist Raj, I ask you, and mind you, Sir, I have great respect for a section of Ulema. I think our spiritual and political fathers were not suited-booted gentlemen of today, but the brave Ulema who sacrificed their lives and who were blown out through cannons in 1857. They were the founders of the political movement not only of the Muslims of this sub-continent, but also of the Hindus, Sikhs, Parsis, etc., of this sub-continent. For those Ulema of 1857 I have the greatest respect. Generally speaking, Sir, what is the role of the Ulema ? Whether by it we mean the *moulvi* of an average mosque who goes to the provincial Jama Masjid—I ask you, Sir. His role in the last 200 years has been most shameful. With due respects I say and I repeat that the fathers of our political thought and spiritual founders of our movement were the Ulema of 1857, but I am talking generally that they can be wrong and whereas Ulema of 1857 were so right, more right and brave and courageous than any of us, yet the moulvis and Ulema later did not prove themselves worthy of their position and they were the biggest support to British Imperialism for not one decade, but many decades. They were the main source of Imperialist strength. Therefore, Sir, Ulema are not infallible. The only tribunal before which we can go—however fallacious, however backward, however illiterate and however politically unconscious—is the tribunal of the people. Those who want to introduce a certain ideology in this country must go to the people—even when they go wrong. Moulvis have a chance to go to the people five times a day. They have their offices in each and every village and they have an occasion on every week to give them sermon. If through approach of the people these gentlemen could not be in seats of power here, then I beg to submit that there is nothing wrong with the ideology that the Muslims profess. That I do not say. But surely there is something wrong with their understanding of that ideology : possibly their past goes against them—having supported the British Imperialism ; possibly their present goes against them—because they are supporting the feudal element in the country. That may be the cause of their failure. But, Sir, they have better occasions to approach the people than Mr. Mohammed Ali, the Prime Minister of Pakistan. Therefore, Sir, I beg to submit that nobody has a right to come forward and say that we cannot appeal to the people. Let us approach the people of Pakistan and have their verdict. It is quite possible that the people of Pakistan who could not be aroused by the *Gadar* of 1857, or even six or seven generations were not enough to arouse them, may respond. They were in a great state of degradation. These people, I can well believe, may not be aroused at the next elections. They may yet go wrong at the next election or even beyond. But when the Ulema have waited for the last two hundred years, and have tolerated a state of affairs which was contrary to the concepts of Islam, to those Ulema I would request not to be in a hurry. Let them wait for another generation ; wait for two generations and I am sure they will get what they want. But that would be the right way.

The people here have betrayed the interests of Islam. They are showing a lack of foresight. They imagine that 14 per cent. elections could get more than what 100 per cent. elections would yield. These

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people have no faith in their people. They want to depend on vested interests. I would say that the use of the word "Islamic" is really derogatory to the ideology as understood by the common people. Our leaders are using it as a slogan and have forgotten the spirit of Islam. This is my charge against the people who have framed this constitution. Sir, we have betrayed, in framing this constitution, the interests of the Muslims. (I am not dealing with other people. I will talk of Muslims only.) I beg to submit with due humility that we have betrayed the interests of Muslims by putting forward a constitution of this type. We have betrayed the interests of Mussalmans and Pakistan. Each Premier who has signed on the dotted lines has betrayed the interests of his province. Sir, when we talk of Islam being a world ideology, a dynamic force and an eternal code of principles and we come forward with a thing like this, we prove ourselves to be parochial. If other States of the world re-act against Muslims on how we are behaving towards the Hindus, I think the cause of the Muslims the world over will be in danger. If other States of the world think that we are a danger to the peace of the world, they would say that these people are sectional; these people cannot tolerate people outside their own religion enjoying full freedom and enjoying full rights of citizenship. Therefore, they would say these people are not worthy to hold the reins of a State. Feeling that the countries of the world, if there was a democratic world, could very well re-act against us. Really we have betrayed by conveying to the world that we want to be treated like that. We cannot make our minorities part and parcel of our national life. We have proved this to the world. We have exposed the Muslims of the world to a danger which is really unpardonable. Sir, we have proved ourselves to be parochial. People with wider vision, and who would consider an ideology of a more permanent nature, would not have behaved like that. Only narrow-minded and parochial people could have given the type of constitution that you have given. We have really harmed the interests of Muslims of the world. You will agree with me, Sir, that we have done harm to the interests of 3½ crores of Muslims living in India. Many people have not the courage to say so because they know that they will be shouted down. Sir, I submit that Muslims in India are being treated much better than how the Hindus are treated in Pakistan. We told the world that we are going to give you an ideology and this is how we are behaving! I think we have done a great harm to that ideology. As I submitted before, we have done a great harm to the Muslims of India. So far as the Muslims of Pakistan are concerned. . . .

Mr. Abdullah al-Mahmood : Let us hear what is the ideology you wish to propagate.

Mian Muhammad Iftikharuddin : *You are hearing what I want to say. I will not ask you what I want.

Sir, I was saying that we have even not looked after the interests of the Muslims of Pakistan. Sir our minorities constitute one and a quarter crores of people. For ever we have declared them foreign to ourselves. We have not given those minorities the rights or the facilities whereby they would have assimilated themselves in our national life. I think there is no amount of sophistry which can prove that we have not declared that these minorities cannot be a part and parcel of our national life.

*Speech not corrected by the Honourable Member.

Sir, the minorities themselves want to vote with us ; they want to merge themselves in our national life and we say : "No." The excuse that we offer to the world is that they need protection. Well ! if that is the excuse (and after the 30-per-cent-formula which you have put forward) I say that if the minorities are more foreign to us than the Muslims of various provinces, then the right of 30 per cent. safeguard should have been given to those minorities.

At this stage Mr. President vacated the Chair which was occupied by Mr. M. H. Gazder, a Member of the Panel of Chairmen.

Mian Muhammad Iftikharuddin : *We have not given them that right. I do not believe in that right but if that right was to be given to any one it should have been given to people who are small in number, people whom we consider not a part and parcel of our community and people whom we consider more removed from us than the Muslims of various provinces. If any justice was done and if any democratic method of justice was to be adopted then this protection should have been given to minorities. So it is sheer nonsense to say that we have given protection to minorities. We have behaved towards the minorities perhaps equally or may be in a little worse manner and have brought them on the same level as India has done perhaps. We are waiting for the day when India will take initiative of making a big generous gesture and then will Pakistan respond. I feel that people who proclaim that they are going to give a new ideology to the world should have been the first to act rather than people who have given a mundane and secular state and the latter should have come afterwards. Therefore I do not think that our claim that we have done justice to minorities is correct. Really we have put things in the constitution which in practice were not necessary. The question of the Head of the State has been talked about threadbare and I am not going to dilate on that at all but I am just saying that if any one wants to bring down the name of Pakistan in the eyes of the world only that section of people would have put in such sections in their permanent constitution, knowing that by putting them they would be using the best method of 'badnaming' (*badnam*) , if I may use that word, Pakistan in the eyes of the world. Otherwise all these things were absolutely unnecessary. Sir, as I said in the beginning there has been a unit of people in power and that is why the country today is so lifeless that it is not re-acting to that generous unit. Now the formula that has been proclaimed as a stroke of genius is really one of the most dangerous articles or sections in this constitution. Sir, it has not been put in but it is going to be put in.

Shri Dharendra Nath Datta (East Bengal : General) : It will be there.

Mian Muhammad Iftikharuddin : *Yes it will be there. In fact so much importance was attached to it that it seemed very exaggerated. As I said before a year has to elapse before the constitution could be considered because our leaders thought that unless that important question was settled nothing could be done—the question of representation as settled by this formula. Sir, that formula really cannot stand any close scrutiny. The first thing that it has said is that it will bring Provinces together. I think, no formula that I can know of could have

*Speech not corrected by the Honourable Member.

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been something worse than this. I cannot think of anything worse which could have created provincial spirit to this extent as this formula has done. It has accepted the differentiation that exists in various sections of Pakistan without giving any remedy. It has emphasized those differences in fact. Sir, after two years or three years or may be longer when the new Parliament of Pakistan comes into office and sits here, you will notice that in the lobbies of that Assembly wherever we are sitting then, the only subject that will be going on will be intrigue, how to get more votes. That will be the only subject and from Bengal no doubt will come half the people and Bengal would always be taking the initiative in launching that intrigue but the victims of that intrigue will be the people of West Pakistan. And Bengal, strong as it will be in this House at that level, will perhaps succeed in forming the Government not with very great difficulty but it will also succeed in further disrupting the people of West Pakistan and in further corrupting the politics of West Pakistan. By that, if people think it would lead to greater love and friendship between the peoples of Pakistan, I beg to differ, Sir. What is being called as inter-dependence really does harm to both. First I am dealing with what would be the position of Western Pakistan. Western Pakistan did not accept parity a year ago. Western Pakistan has today accepted parity and of a worse type than that we talked about a year ago. The solution of a year ago would have been more democratic and I say the interim report, as it was put forward, the original report as it was put forward was more democratic than what is being now put forward. Sir, the 50 people of the Upper House will be really more or less nominated people. You might say that Punjab will be electing these 10 people and Bengal will be electing these 10 people but in fact people who would be elected from the Frontier States, Frontier Regions, Bhawalpur, Khairpur and Karachi, no leaving aside Karachi, Baluchistan States will really be people nominated by the powers that be and their number is going to be 15, 20 or so and with 10 people from Bengal it is easy to get permanent majority in that House, I mean in the Upper House for Bengal.

Then again as has been rightly pointed out in newspapers, 30 per cent. safeguard really enables one to have an undemocratic Government in power in this House, because if Bengal has 71 per cent. votes with it no other Government can be formed. Sir, further no progressive measure can be put through. That is the most important item that I think no measure for social or economic reform can be passed if you do not get 30 per cent. votes. What happens is that it is proposed that under the advice of the people in power the House will be dissolved and then a new House will be elected. It is, Sir, well-known and I have been clamouring for the last six years and trying to bring home to the party in power here in this Assembly that the Constituent Assembly be dissolved. But nobody has cared to dissolve this House. How on earth are the people who will be in power then, going to advise the then President to dissolve the House. So the House will never be dissolved and no progressive measures will come. All that will happen will be that people in power will remain in power. The country which is passing through its infancy and which requires new legislation daily, a country which needs the old legislation to be thrown out because it does not fit in with the ideology and the new atmosphere of freedom and liberty, and so the country requires daily laws and Bills and Acts but that country will have the slowest legislature in the world so far as legislation is concerned. Therefore looking at it from any point of view and you will find that it is very undemocratic. It is the best thing which the

enemies could have suggested to retard our progress. Sir, this formula which is acclaimed as unique is really harmful to the country. Look at the way these people quarrelled on it last year but now they have accepted this. But I think for the West this formula is worse than the formula of last year. The second thing that I have tried to prove is that this formula is undemocratic and it will make further progress absolutely impossible and the third point in this connection that I wish to bring to your notice is that if Mr. Nurul Amin thinks that he can go back and boast that he has given a formula of constitution which is going to do justice and give democracy and self-determination to the people of Pakistan, I think, he will be relying, he will be depending, too much on the lack of political consciousness of his people. This formula has done harm, equal harm to both and I would try to prove that, Sir, in the next 20 minutes or so, because I would, before coming to that, like to remove certain misconceptions from which we suffer in the matter of unity of Pakistan and democracy of Pakistan.

Sir, the first misconception from which we suffer is that we often mix centralisation with unity. Unity and centralisation are not the same thing. If centralisation really means unity, then the existence of district boards where we have so many departments, such as village schools, primary schools, roads and lightings, etc., all these things would lead to disruption. Actually, if district board subjects were brought into the Central Government, the State will disrupt a year earlier than it would have done otherwise. Therefore, nobody argues that these subjects should be transferred to the Centre. Subjects are governed and are allotted according to their convenience. So, centralisation can really result in disruption and not unity. If you centralise in that way, there will be revolt in Bengal; if you brought in all the subjects that there are today in Bengal, you will find that there will be a revolt there and *vice versa*. If you take the Capital to Dacca and gave all the subjects there, there is bound to be revolt in Pakistan, in Western Pakistan. Therefore, to say that centralisation and unity are one thing is the greatest mistake. At times centralisation, over-centralisation, leads to disunity as surely at times lack of co-ordination leads to disunity. I beg to submit, Sir, that situated as we are in this country, this factor has throughout to be borne in mind that centralisation is not to be confused with unity.

Secondly, Sir, we must bear in mind that compulsion is not the best method of achieving unity. We have, unfortunately, this conception that unless there is a strong Government, there will be no unity. I think it is absolutely incorrect. Strong government at times may lead to bigger disruption.

Thirdly, Sir, we have this funny idea in our heads that the best determinant of a nationhood was Her Great Britannic Majesty the Queen Victoria. That is not so, Sir. We feel that the test of nationhood was determined by British Government and that applied to us till eternity. We feel that the Muslims of Pakistan, we feel that the Muslims of Pakistan are one nation because the British conquered these areas 100 years ago. Had by any chance British failed to conquer Punjab, as they had been for so many decades, and Sind and Frontier, according to our conception of nationhood, Punjabis, Sindhis and Pathans would not have been one nation with Bengalis. On the other hand had the stubborn hills of the Frontier and the brave tribes living in them not stopped the British influx at the Khyber Pass, even Afghanistan had been brought within the fold of British Dominion, even Afghans would have been one nation with us. Now, Sir, this test, *viz.*, the test of British-conquered,

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as determining factor of nationhood to me is very wrong test. We should never depend on that. This is not the test. When you talk of Muslims why should you close the doors of cooperation, provided ideologically they also develop in the same manner as we had and they are also democratic States, why do you close your doors to Afghanistan, to Indonesia and to other progressive countries, Muslims and even non-Muslims? Why do you close your doors of cooperation; why do you make such constitution? On the one hand, you say Muslims of the world are one nation and on the other you put such definitions in practice on nationhood that it is impossible for any Muslim or non-Muslim progressive State to cooperate with you. Why this contradiction? Today if we have framed a constitution which happens to be natural to the genius of our people, in fact, instead of opening the doors of disruption and disunity, we would have opened the gates of unity and accession of future strength and accession of more States to our people, but we have not done that because it did not suit the peculiar genius or the requirements of the people that rule us.

Fourth misconception that I would like to bring to the notice of the House, though you, Sir, is that we feel that the lines drawn in those areas by the British are really the correct lines. Bahawalpur State, although it was constituted by the British just because the Rulers of that State, at that time, happened to help the British Imperialists, as those of the States of Khairpur, Frontier States and the rest, were the creations of British regime and we consider them sacrosanct and the fact it is really a unity of the rulers is best proved in the manner in which our leaders have maintained the States even in the Constitution which is to be worked for the next 200 years. The States, whose history I have just described, created by our British Rulers for their own requirements and as *Inams* to the traitors, these States we have retained because unity had to be achieved in the Prime Minister's House in Karachi. There the Chief Minister of Bahawalpur was there: it was not the people that had to be pleased, but the Chief Minister of Bahawalpur, the second biggest landlord, may be he is now bigger than the Nawab of Bahawalpur. He had to be satisfied and not the people of Bahawalpur. Mr. Kizilbash, the Chief Minister of Khairpur, who is not even a citizen of Khairpur, had to be satisfied, not the people of Khairpur. And again, Khan Abdul Qaiyum Khan, who had left this country 10 years ago and adopted the citizenship of Kashmir, because he is a Kashmiri, he had to be satisfied and not the Pathans of the Frontier, when the meeting on the formula took place in the Prime Minister's House. How can I believe, Sir, and then anyhow, there was nobody, only a telegram from the Ruler of Kalat, from the A. G. G. of Baluchistan, which was sufficient and nothing more, Mr. Chairman, from your city was necessary at all! It was sufficient for those people to say we are united. Now, it was never in their mind to look after the interests of the people. Had it been in their mind, had they any free mentality, had they any historical sense, had they any knowledge and the reasons of these princely States, of their creation and existence, these people would never have allowed Bahawalpur to exist as such: these people would not have allowed Khairpur and Baluchistan States and Frontier States to exist separately from their linguistic units of which they were the natural part before the British domination.

Sir, therefore, this *samjhota*, this agreement is really an agreement amongst the Rulers and is an agreement against the ruled; the agreement of the small group of people who are today in power to maintain

themselves as long as possible in their present *Gaddis* as against the wishes, interests and requirements of the people of Pakistan and its various units. But, Sir, why should they? If Bahawalpur had been put in Punjab, natural place, the possibility of intrigue would have gone. These four or five people would have been sent by the Punjab and the Central Government could not control their election to that extent. If Khairpur had been merged into Sindh, its natural place, the Central Government would have found it difficult, though not very difficult, to nominate their own people. And if the people of Karachi and Sind had been given a proper status in the Constitution of Pakistan, again the nomination would not have been so easy. All this agreement was for the good of the people. I was trying to say that we have got to disabuse ourselves and the fourth misconception, namely, the lines of these States, the boundaries of these States drawn by the British Rulers have no sanctity behind it. Fifthly, Sir, I feel that we have often mixed the question of language with the religion and Urdu with Islam. We are to believe that language is a basic part of religion and Urdu is a basic proof of Islam. I say it is very wrong. If any language would have been a part of religion, perhaps Islam could not claim such a Universal appeal as it has today and if Urdu is more Islamic than Bengali, then perhaps Persian would be more Islamic than Urdu because it has a greater number of Arabic words and for Arabic that would have been paragon of Muslim nationhood and for Bengal they may have Urdu or not but what about Indonesia where their language is full of Arabic words. Now this conception of Islam to me is very strange. The language has nothing to do with religion. Language is what people want to speak. We the people of Western Pakistan want to speak Punjabi, Sindhi, Kashmiri, Baluchi, Pushto in our home lands and when we meet each other across the border and in the Central Government where we have to say something, there it is something mixture of our languages. We are pleased to learn and speak Urdu simply because we want to have Urdu as our inter-provincial language in the West and our main language which had been developing so beautifully for the last two hundred years until the British came. Shah Abdul Latif, Syed Waris Shah, Khushai Khan Khatak, were the poets, writers and philosophers before the British whose languages as it were would be equal to any other of their time. But after that knowing because it was not in their interest and knowing that there was no need to have more than one working language in India the Britishers wanted to have Hindustani as our language which is being developed. Let our language in each Province be developed. Let us have inter-provincial language as Urdu in the West and if Bengal wants to have Bengali as their provincial language, let them stick to it. After all Pakistan has been created for the progress and prosperity of the people of these areas. It is not a modern language Institute in which Urdu must be taught. Even if the people do not want to talk Urdu in Bengal, I think nobody from West should take that Urdu will never be acceptable to Bengalis if it is not forced upon them. The Bengalis will learn Urdu with pleasure and prefer it to English if it is proved to them that it is worthy of learning and that it is of their own freewill to learn. So develop Urdu. You have not done anything. I do not think you have spent more than two lakhs in the last two years in the development of Urdu. Even I alone can claim that I have been spending more in the development of Urdu in the last two or more years. I think I would have spent few lakhs of rupees more in the development of Urdu in these five years than the Government of Pakistan have spent. The Ex-Minister of Education will bear me out when I say that I was the first to import Urdu printing machinery. I was the first to make an

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attempt to mechanise Urdu printing and it was at my request and suggestion that the then Minister of Education took it up—I think I am sorry for talking in that manner but since I was opposing Urdu to be the one and the only language against the wishes of Bengal as a *lingua franca*, I think I have done a little more than the Government of Pakistan have done in the form of money in supporting Urdu through newspapers and printing in the last two years. Develop Urdu, make it more attractive, more modern, more rich for our Bengali brethren and only then they would learn it. But without doing it, is not just to force it down their throat. Therefore, Sir, I was saying that the fifth misconception from which we suffer is that we consider religions as synonymous with language and Islam as synonymous with Urdu which is incorrect. Lastly, we believe that if there is large number of people, Muslims, living in one area of the World, because they are Muslims, they have the right to rule over us. Our Bengali brethren think that because they are greater in number living in Bengal, may be twelve hundred miles removed from us, have the right to rule over us because they are Muslims and we are ryots. This is wrong. Muslims anywhere, of whatever nationality, howsoever small, even they may be Baluchis, slightly even bigger than that they may be Pathan, little bigger than even that, the Sindhis and little bigger than that Punjabis do want to have a very independent existence and Islam does not give any section of Muslims, however large in number, to dominate over the possessions and destinies of other Muslim areas and nationalities. Sir, in this connection, I through you, Sir, bring to the notice of the House seventh misconception and I am afraid I am worrying the Honourable Members perhaps by using the same word from which we must disabuse ourselves and that is the idea from which we the Westerners suffer and must get rid of. The people of West Pakistan think that they contribute greater number of Military men to the armed forces of Pakistan; they contribute more money to the coffers of Pakistan; they contribute greater number of people in the Services cadres of Pakistan and therefore they must have the right to dominate over Bengal. Sir, if this principle is accepted, then obviously the Britishers would not have left us because they were better than us. You may say, they were British and therefore we had to say good-bye to them. Here Punjabis, or Sindhis or Pathans or Baluchis must rule over us because they contribute more money; they are more in service and in the army. If this Imperialist argument can be put forward five years later, the people will claim that Karachi, because it has biggest number of rich people as import licensees are available only in Karachi and not out of it, that we should rule all over Pakistan because half of the Pakistan revenue will—probably after five years if the present uneven distribution continues—come from the people of Karachi. Therefore, Sir, this is a wrong idea and this claim of the Punjabis and the rest that Bengalis cannot govern themselves because they are not in the Army is nonsense. Therefore, lastly I must through you, Sir, say to the Honourable Members that we must not disabuse ourselves.

Mr. Chairman (*Mr. M. H. Gazder*) (to Mr. Iftikharuddin) : Will you kindly take your seat? I want to take the sense of the House whether they would like to sit up to 1.30 p.m. because the Honourable Member might finish his speech by that time and in the evening whether you would like to sit from 6 p.m. to 8 p.m.

Mr. Fazlur Rahman (East Bengal : Muslim) : Up to 8-30 p.m.

Mian Muhammad Iftikharuddin : May I now speak, Sir?

Mr. Chairman (Mr. M. H. Gazder) : Please wait. Shall we continue up to 1-30 p.m. ?

Mian Muhammad Iftikharuddin : Let us get rid of it.

Mr. Chairman (Mr. M. H. Gazder) : Today in the Afternoon, the House will sit from 6 p.m.

Shri Dharendra Nath Datta : Sir, will the Honourable Member be able to finish within half an hour ?

Mr. Chairman (Mr. M. H. Gazder) : Will the Honourable Member be able to finish his speech within half an hour ?

Mian Muhammad Iftikharuddin : No, Sir.

Mr. Chairman (Mr. M. H. Gazder) : Then we adjourn now at 1 o'clock. The House now adjourned and will meet again today at 6 p.m.

The Assembly then adjourned till Six of the Clock in the Evening.

The Assembly re-assembled at Six of the Clock, in the Evening, Mr. President (the Honourable Mr. Tamizuddin Khan) in the Chair.

REPORT OF THE BASIC PRINCIPLES COMMITTEE—*contd.*

Mr. President : Mian Muhammad Iftikharuddin was in possession of the House. He may continue.

Mian Muhammad Iftikharuddin (Punjab : Muslim) : *Mr. President ! I was saying, Sir, that on the question of unity most of us in Pakistan suffer from wrong notions. Sir, I said that unity should not be confused with centralisation and that unity is not to be achieved by compulsion. Thirdly, to make British conquest as the determining factor of nationhood would lead to many wrong conclusions and ; fourthly, that the British land of the British rule, such as boundaries of the State-feudal and princely States, should not be considered to be sacrosanct and that the fact that a certain area has a greater number of Muslims inhabiting it does not entitle a people to rule over others ; sixthly, that the fact that a certain people in a State contribute more in money to the coffers and more in men to the Army or the bureaucracy of the state should not give them a right to rule over others and, seventhly, that language should not be confused with religion and Urdu with Islam. Lastly, Sir, I would beg to submit that we have an idea that unless we get the satisfaction of exploiting a section of our people, we do not consider that we are united. It is a very wrong idea. The arguments that have been put forward during the last few years for a strong centralised Government were based on the one hand that we must have authority in the Centre and then East Pakistanis desire that they should have the free hand in that Central set-up, and the West Pakistanis argue that they were better suited to control the destinies of that Central set-up. Sir, if these 8 or 9 wrong notions that I have mentioned are got rid of, I think the question of Pakistan's Constitution becomes clear and the question of unity can be more easily solved. Sir, I cannot understand why all these wrong notions should play a part in our drafting a Constitution for our country. I have tried to prove that an unnatural centralisation, an unnatural control over others would not lead ultimately to unity, but on the contrary would lead to disruption.

*Speech not corrected by the Honourable Member.

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It is very easy to argue that so far as East Pakistan is concerned it has totally different problems. It would be most wrong on the part of any Minister of Western Pakistan, let us say the Minister for Communications, to argue—in fact it is impossible to argue and prove—that he could judge the Communications requirements of East Pakistan better than an East Pakistani. East Pakistanis knows better, I beg to submit, Sir, what roads they need, what waterways would suit them, what places are to be connected by railways, what places are to be reached by telephone and telegraph. In the same manner, East Pakistanis can run their own industries far better than the Industries Minister sitting here, who knows less about the industrial requirements of East Pakistan, about the industrial potentialities of East Pakistan, and, *vice versa*. Sir, a Minister for Commerce belonging to East Pakistan really cannot understand so easily the problems of commerce in Western Pakistan. He does not know how best he could, he would not quite as well as a Western Pakistani would, how best he can raise or maintain the price at a certain level of cotton. He would not know other problems connected with the commerce of Western Pakistan. Therefore, I fail to understand why people argue that we should control these subjects from the Centre. It is very clear that Eastern Pakistan would be better served, those subjects will be better controlled, these Departments will be better run if they were run from Dacca and not from Karachi. I cannot see, even if Mr. Nurul Amin were to go back—he will be flying back and will feel that he goes back as a victor; he will be flying back with the parity formula in his hand—if the people of Bengal were to look at that formula a little more closely, let alone parity, even if Mr. Nurul Amin went back with 290 seats for his own Province in a House of 300 and ten seats for Western Pakistan, I think even then he will have betrayed the interests of his people. What right have ten people, even in a House of 300, from Western Pakistan to sit in a House of 300 and decide the questions which pertain solely to East Pakistan. Therefore, Mr. Nurul Amin may certainly have got something in the form of jobs in the bigger Government by accepting parity but he has not really in any way served the interests of the people by getting this parity for his own people. I would even say that even if he had 290 seats in a House of 300 he could rightly be criticised? Why should ten outsiders from Bengal interfere in the affairs of Bengal in the communications, in the railways, in the telephone system, in the telegraph system and in food problems, in industrialization, in planning? Why should even ten people from outside interfere in those? Do not we object even in district boards to intrusions of people coming from outside districts? Well, district boards are not national units. Here Bengal is a national unit of Pakistan and I am sure Bengalis will be very right in objecting, to giving any subject that could best be governed from their own provincial centre to the Central Government, and Mr. Nurul Amin could be rightly criticized for what he has done here. Sir, it may be said that if all these subjects could rightly be governed—and it is very easy to prove that they could be from the Bengal centre—then why have unity at all, but there are factors on which we should stand united. I know that Defence, for instance, and Foreign Affairs are Departments in which unity is most necessary and natural. Foreign Affairs and Defence go together because they are common subjects and they should be controlled with certain restrictions from the common centre. Pakistan is the result of a common historical background and common struggle and today it faces in the field of international affairs common problems and has common dangers. Both East and West Pakistan face the world with common problems and

have common dangers. You may even say that they have common enemies. In those circumstances, a unity that will strengthen them in facing the world and international problems, or, if you like, common potential enemies makes it necessary that Departments like Defence and Foreign Affairs be governed from the same centre. Sir, it will be a wrong conception of nationhood if one were to argue on that and it would ultimately lead to disruption. On the other hand, in Western Pakistan it is very clear that there are greater common problems. Now communications is a common problem of Sind, Punjab and North West Frontier Province. Waterways there are not many, but there is the Irrigation system, the Telegraph system, the Telephone system, Customs, Commerce, industrialization, Planning, Food, Education—we have a common script and common inter-provincial language—all these are common problems for the people of Western Pakistan. So these people must have a Federal Centre in which there will be greater number of subjects than would be in a Centre which will be working together with Bengal. It will be a most unnatural arrangement if we impose on Bengal, or if we take away from Bengal, those subjects which could best be controlled and governed from Dacca and to me there is nothing unIslamic about it. If Afghanistan, Iran, Iraq, Egypt and other Islamic countries can be called Islamic and can live as Muslim countries without being governed from Karachi. I cannot understand why Bengal cannot live without being governed from Karachi. It is very clear to me and I believe that if there is anything unIslamic it is creating conditions where the accession of more States to the future bigger and greater Federation or Confederation of Pakistan is made impossible. We are creating conditions in which no other country would like to accede to us because we would be controlling them from a Centre which is removed from them and which is an unnatural arrangement; so it is for the other people to prove whether their stand is Islamic or democratic or conducive to Pakistan's greater strength and prosperity. Sir, therefore, to my mind there is only one pattern that can fit in with the requirements of our people. We are removed, which is not a very common thing in the world, by 1,500 miles from each other or over a thousand miles from each other. We have different climatic conditions. We have different soil. We have different agricultural products. We have different level of development and in between the two countries or two sections of Pakistan lies a country with which we have not very pleasant relations, a country which could stop the communications between the two Pakistans if it wanted to behave worse than it has been doing in the past. Under these circumstances, I cannot understand that there could be any arrangement other than confederal that could suit this country,—confederal I say because on this side, I know there are greater common points between provinces and if they are not centralized, they would also lead to disruption. As I was saying, unnatural centralization on the one hand leads to disruption and on the other, decentralization or too loose a centre, when it is unnatural. Such a loose centre also leads to disruption but we must also make it clear that even in Pakistan no Central Government should try to impose its will by majority of a particular province or a group of provinces on the rest. There are Sindhis, Baluchis, Pathans and, in future, Kashmiris and Punjabis living in Pakistan, each one of them is a distinct cultural unit, although all of them are Muslims, each one of them must, in the fullest possible sense, enjoy autonomy. They must have full control of themselves and then for their own good they must and they will concede those subjects to the Western Pakistan Federation which it is to their advantage to concede, and no Government in Western Pakistan could

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be lasting or acceptable which really results in the domination of one province over the other, even though in the future natural Federation of Western Pakistan the Punjabis who have today a population of, say, about 56 per cent. would have a population, may be, about 65 per cent, because Bahawalpur, a Punjabi-speaking area, by its own consent, if it is allowed to vote in a free condition, would accede to Punjab. Punjabis who may constitute 65 or 67 per cent. of population in Western Pakistan should not be given a majority, should not even have a parity, should be satisfied with 40 or something like that, seats in the future Federal Legislature of Western Pakistan, so that they may not be able to dominate them, even though they may constitute 65 per cent. of population. They may not be allowed to dominate over small people or small units. That arrangement to me would be the most natural arrangement and not the arrangement that we are making today. As a matter of fact, one of the most pertinent remarks made during the discussion on this Report came from Mr. D. N. Dutta when he said that we are cheating the people when we tell them that we have today a federal system. We have not even a federal system today. We have really a unitary system just as Bengal has on provincial level a unitary government, even though there are municipalities and district boards enjoying certain rights. Likewise today Pakistan is a unitary Government as proposed in this Constitution, even though provinces may be enjoying certain rights like district boards and may be controlling under the goodwill of the provincial Centre, certain subjects. We know very well that at any time the Centre can oust a Ministry, the Centre can replace a Ministry; the Centre can impose section 92, even though the decision may be that of the future President of Pakistan, but that President himself will have been chosen not by the people of Pakistan, according to this Constitution, but by this House. That President obviously has to vote, according to the wishes or, subject to control of Government, according to the wishes of the majority of the future Central legislators of Pakistan. Therefore, I cannot understand how this will be called a Federal Government. It is not even a Federal Government, and it is very interesting to note that in the three lists given actually the Central has 67 of the most important subjects under its control, and in the Concurrent List it has further 37 subjects, thus making in all 105 subjects, or is it 104? These are really Central subjects which are either directly under the Centre or some of them indirectly, because they are concurrent subjects. They are under the Centre and the provinces have just 36 subjects and I am sorry that the Provincial Chief Ministers are not present; otherwise I would have suggested to them that they should at least accept a certain sense of humour and play back the joke that has been played on them by giving away some of their 36 subjects that now form the Provincial List. I would suggest to Malik Firoz Khan Noon, Mr. Nurul Amin and Mr. Pirzada and other Provincial Chief Ministers to make a present of them to the Centre and they will feel very happy about it. I mean the Provincial Ministers would ultimately find it greatly to their convenience if they were to pass on such subjects, namely, Prisons, Reformatories, Borstal institutions; Public Debt of the Unit. I say pass them on to the Centre. Another subject is Unit pensions; Universities, libraries, museums. These can even go to the Centre. Then Burial, burial grounds and places. Give them to the Centre. Pilgrimages other than pilgrimage beyond Pakistan. Let Centre perform them. Then Gas and Gas works, let Centre have them. Fisheries; Control of inns and innkeepers, shops and saloons. Heavens know what

they mean. Money-lending and money-lenders—surely a Central subject. Adulteration of foodstuffs and other goods; Betting and gambling. These are the 12 subjects out of the 36. If not for any other reason, at least for the sake of compactness of the rules, let them be given more to the Centre. That is the joke that is being played with the provinces and Mr. Nurul Amin is going back and expects a great reception at the Airport, because he will have brought back parity. I think Bengalis have a better sense and greater political consciousness than Mr. Nurul Amin thinks that they have and he will say that if during the next few weeks he allows people to function freely and speak freely in his province, that province will revolt against this actual unitary though nominally federal government and rightly so. I tried to prove, Sir, earlier that the West has lost immensely as a result of this formula. I tried to prove that this formula from that angle is worse for the West than was the formula offered originally in this Report of parity. From that I fear that Mr. Nurul Amin would have felt and would have gone back and boasted that he has brought something for Bengal. But people with greater constitutional knowledge and experience—and there are many in Bengal—would prove to the people of Bengal that what really Mr. Nurul Amin achieved was that he will have a greater number of jobs at the Centre; he will be able to have a greater number of Ministries at the Centre; he will have more power at the Centre; he and all his successors will be the determining factors in the formation of future Ministries of Pakistan. That is perfectly right. Bengal will always have the initiative. There could never be an initiative taken by any—however able and strong he may be—by any legislator in the future Central Parliament of Pakistan from the west. All initiative would certainly lie with Bengal. That is true and he may go and boast about it. Mr. Nurul Amin may have increased control over the affairs of Western Pakistan but that is no consolation whatever to the people of Bengal whose subjects are being controlled—though it may be a House with only 10 members from Western Pakistan—from a distance of 1,200 miles from their provincial capital. It is quite easy for these worthies to come here every autumn and spring to attend sessions of the Central Parliament at the expense of the Central Government but what about four crores of people of Bengal who cannot afford to come here easily. Ninety-five per cent. people of Bengal will not be able to come to Western Pakistan and present their grievances to the various Ministers and their Secretaries and Deputy Secretaries. Is this not injustice enough? So, Mr. Nurul Amin may be a happy man but Bengali people are bound to be most unhappy with the present state of affairs. I am sure the House will agree with me that this arrangement is most unnatural. It has done injustice to West in more than one way; it is totally unjust and unkind to Bengalis. The natural arrangement is: let each and every subject that can be better governed from Dacca be left to Bengal. Let them have their own government. Let each and every subject that can be governed in the provinces in the west be left to the provinces, and with their consent..

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Mr. President : You are repeating yourself.

Mian Muhammad Iftikharuddin : *I will not. I notice that people were allowed even to bring in such things as the Karachi Joint Water Board and the Central Jinnah Hospital. I am dealing with the report.

Mr. President : I am only saying that you are repeating yourself.

Mian Muhammad Iftikharuddin : *I was saying that that is the only arrangement that can fit in with the requirements of Pakistan.

*Speech not corrected by the Honourable Member.

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That is the only arrangement that will lead to the unity of Pakistan. It may be said that Bengal cannot defend itself. It may be said that Bengal has not got potentiality to run its Government if subjects other than burial grounds and gas works were transferred to Bengal. My answer is that if that were the argument then we would not have been free at all. The British were better administrators. Mr. Mohammed Ali may be having good Secretaries—some of them may be better than British officers. But taking generally, they were better administrators. But we got rid of them. Bengalis may not be so well in the matter of Defence.

Mr. Wahiduzzaman (East Bengal : Muslim) : Who says ?

Mian Muhammad Iftikharuddin : Western Pakistan Muslim Leaguers !

Mr. Ghyasuddin Pathan (East Bengal : Muslim) : Question !

Mian Muhammad Iftikharuddin : *I wish I had been in Bengal myself. I wish my masses in Western Pakistan had the same political consciousness. But I am repeating the opinion of your Muslim League leadership. I envy your masses. Honestly I do ! I feel if I had been in East Bengal I would not have been a single person sitting in the Opposition here. Because of their imperial policy, army policy they have let loose in full force forces of corruption in Western Pakistan and here the people are ashamed to admit that despite their superiority in most matters or many matters over Bengalis, they are politically less conscious.

Mr. President : That does not relate to the Constitution.

Mian Muhammad Iftikharuddin : *I felt a little compliment would have been soothing to your ear. However, I will confine myself to the report.

I pray and hope that our leaders even at this stage change their minds and give us a constitution which will give us unity, which will keep Pakistan united, which will be natural, which will keep the exigencies—geographical, historical, linguistic, cultural and the rest—in view.

Sir, I now come again for a minute to Western Pakistan and I ask why today Mr. Firoz Khan Noon has been able to put down the throats of the Punjabis and Western Pakistanis, despite this formula which is worse than last year's. Because of section 144 people in power have been able to push down this formula down the throats. There are thousands—hundreds if not thousands—of people who are in jail. People as a result of Marshal Law have been terrorised. People in the Punjab feel frustrated. The Punjab which on account of its numbers and other reasons leads political agitations here has not been able to play its role. That is why Mr. Firoz Khan Noon was able easily to accept this formula and may even get—if the present semi-martial law conditions continue—a reception when he goes back to the Punjab in the next few weeks. But in a few months later if the people are allowed to come into their own, you will find that the Punjab will react against it. I will state what we have done by this unity. Pakistan is like a rickshaw drawn by two weak and starving men—one East Pakistan people and the other the West Pakistan people. What the present constitution does is that it has tied their legs. Now really they are running a three-legged race. You may very well argue that we have tied their two legs. Neither West Pakistan can go forward without the East nor East Pakistan can go forward without the West but the point is the race itself. The basic question was not

*Speech not corrected by the Honourable Member.

that we should march together, that was important no doubt, but the more important thing was that we should march faster, we should be able to run as fast, if not faster, as the rest of the world. You have done this thing. You have made them march together, but you have really obstructed their speed. You have slowed them down as compared to the rest of the world. On this rickshaw, you may be sitting calmly, the Ministers may be sitting calmly with their friends in a comfortable manner because what really matters to you is that you have not to walk, you may be sitting like that but the movement will be slower than the rest of the world. Let us open up their legs ; let us strengthen them ; let us make them run faster in their natural way and in so running let us see to it that the two brothers keep an eye on each other so that if one is in danger the other may march to the aid of the other. So if one is in danger the other may rush to the aid of his brother. This is the natural arrangement that we really required and not this present arrangement. This proposed rickshaw is detrimental to the future progress of Pakistan. Sir, the Government and the Law Minister boasted that we have brought in now a constitution and we are the Government which is keen to have that constitution passed. That Law Minister with all his ability—legal ability and brilliance—is a new man, pardon me, Sir. You see we wanted a constitution to be drafted by the people and their true representatives and that too speedily. That is what we wanted and not a constitution drafted by these old fossils who sit here in this House and who have now hurriedly brought this report. There is a difference, I would beg to submit, through you to the Law Minister, between speed and hurry. You have brought in the constitution in a hurry. We wanted the constitution to be brought in speedily in the right manner. So that is the difference. Now you saw or rather found a contradiction in my shoutings on the one hand in the past six years that let us have a constitution quickly and on the other my objection to this House passing the Basic Principles Committee Report. Under the circumstances this is the explanation. It is like this. There is an ill person. Somebody has been injured in the streets or fainted. Now you have delayed for six years looking after that person or taking him to the hospital. Now you have suddenly brought in an ambulance car, most probably with an American engine, and you want to put that person in and you want to rush him to the hospital no matter whether there may be an accident with somebody in the street and the person may be killed or someone else may die as a result of that accident but you say he must be taken hurriedly to the hospital. The question is that we should have brought a car as quickly as we can and not necessarily an American car ; even our bullock-cart would have been better provided it was brought in time to take the patient to the hospital at the earliest possible moment without killing him or anybody else in the street. That is what we want, Sir. Therefore I hope that our leaders would think over this problem again and they will think over that they are doomed for ever as this is constitution. If it were an ordinary law one could have let it pass just with a protest but it is something you are making not for one year, not for two years, not for one decade but for many decades ; not for one generation, but for many generations. As it is you cannot help insulting, which is unfortunate, the ideology to which you have attached the name of Islam to. I say please think it over. You are wrong. People had been in the wrong. Do not call it an Islamic constitution ; do not call it a democratic constitution. It is no good. Do not call it a constitution at all. It is a method of retaining your present position and Government and governing us. You can do this even without this. So do not

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give us this constitution. That is what I say because it really will be here for ever. It will stop all hopes of constitutional change for better Government if this constitution is imposed and if this constitution did not come one would hope that may be the future Government may bring a better and the mere word "Islamic" really does not prove that the constitution is Islamic or democratic. Even Afghanistan, I am sure, calls its constitution as Islamic and it may be a treason to say in Afghanistan that the Afghan constitution is not Islamic. Iraq, Iran and Egypt all consider their constitutions as Islamic but what is the test. The test is to what extent it gives practical democratic rights to their people and to what extent they do not and who is to decide the ultimate matters in the state—the people or some few autocrats. I repeat the decision as to whether a constitution is Islamic or not and the purpose of bringing an Islamic or any good constitution in a country is to give the fullest possible democracy to the people for whom it is made. If they are not fully conscious to it the best way is to bring a really good constitution gradually. That is the only safest way of giving a constitution. All other methods would lead to all types of political complications. They may even lead as they have led in some Islamic countries to military dictatorships. Therefore it is really very important to stop before you are taking a final decision about the constitution. But I know these worthies will not agree to this proposal. And why should they? I would appeal, through you, Sir, to the people of Pakistan, the rulers have united; they are one; they have united to betray the people of Pakistan; let the people of Pakistan; let the people of East and West, Sindhis, Baluchis, Pathans, Punjabis and Bengalies; let them unite and defeat the rulers and give Pakistan a constitution that they themselves and their posterity will be proud of.

Mr. Abdulla al-Mahmood: Mr. President! Sir, I rise to lend my support to the motion before the House. During the past few days we have heard learned discourses taking place in this House. Now, Sir, before I go into the details of the Basic Committee's Report, I would very much like to say a few words about that Mian Sahib has spoken before the House. Mian Sahib is very much aggrieved and as such very much bitter to see the Islamic character of the constitution. According to his idea, as I have been able to gather from his whole speech, he does neither support the U. S. A. constitution nor does he support the U. K. constitution; nor does he support any of the constitutions of the Islamic States. But one thing is very prominent in his mind, i.e., the ideology of the States of U. S. S. R. Sir, it is not very far to find it out from his speech that all the time when he was speaking, he was speaking about a loose confederation. His whole idea was that the units should be absolutely autonomous, independent, sovereign units; only those subjects should be left to the Centre which have got connection with foreign countries, as for example Foreign Affairs and such other subjects such as Defence which would give the character of confederation which he proposed to give the name, the name of Confederation. Now, Sir, he did not realise the implication, of the idea of confederation to be applicable to Pakistan. If, Sir, this formula is accepted, we take it for granted, whatever amount of argument he might advance, the very foundation of Pakistan will be shaken and will be at jeopardy. We will have to see, Sir, that first of all the foundation of Pakistan becomes strong; then we will have to see that the units as a body get stronger and stronger. If, Sir, the different units of Pakistan enter into confederation, I am sure, each unit will have a separate tendency and so

much so, that one day there is a chance of disintegration. Therefore, Sir, I must give him a warning that he should not advocate the policy of having the State to have a constitution based on the ideology of a confederation. Confederation we may have even with other States like Afghanistan, U.S.S.R., India, but this State of Pakistan has not been carved out with that ideology. The sub-continent of India was not partitioned only for the sake of territory ; it had some other ideology behind it. Now, what was that ? That is the primary thing that my friend Mian Iftikharuddin forgets. He, as a matter of fact, Sir, is annoyed with the principles that have been enunciated and formulated in the Basic Principles Committee Report. He did not realise that this is to be an Islamic State, an ideology behind the movement which carved out a state. Sir, the State of Pakistan has been established at the sacrifice of millions of people. He forgets, Sir, the ideology behind the carving out of the state ; he forgets, Sir, that Islam alone, the religion alone, was responsible for the carving out of this State from the great sub-continent of India. Now, Sir, I would not dilate any further on this point. Sir, Mian Sahib is very annoyed as to why the provision, viz., clause 13 has been provided in the Report wherein it is stated that the Head of the State shall be a Muslim.

Mian Muhammad Iftikharuddin : May I say a word in explanation ?

Mr. Abdulla al-Mahmood : Sir, he says " that the minorities in India are meted out better treatment than the minorities in Pakistan ". After that, he mentioned clause 13, viz., " That the Head of State should be a Muslim ". I do not know, Sir, how he arrived at this conclusion that minorities in India are treated in a better way than the minorities in Pakistan. He mentioned Afghanistan and Iraq. These are the States which have got the State religion as Islam. Now, Sir, what is the corollary behind the basic principles on which this State has been formed ? It is the religion. Otherwise the minorities living in the seven provinces, knowing it fully well that they will have to suffer, and are even now suffering, will have to undertake immense trouble ; will have to sacrifice many things for the sake of carving out a State for the Musalmans supported the movement of Pakistan. Now, what is that ? This was absolutely on the ideology of religion. My friend over there is thinking of the ideology of the State of U. S. S. R. where they might think, and more-so, of communistic state ; where they think that religion is a personal thing which has got nothing to do with politics or the State. There my friend is sadly mistaken. Now, Sir, why I say so ? It will be found also, if we study thoroughly the constitution either written or unwritten of the different countries. I am citing before this honourable House instances of those countries which have accepted the State religion and the Head of the State belonging to that religion. Mention has already been made by some of my honourable friends here, such as Dr. Mahmud Husain and Mr. Fazlur Rehman, that there are some countries which have state religion mentioned in their constitutions.

Now, Sir, I am mentioning the names of the States before this honourable House which have got the provision of State religion.

Sir, I might mention Afghanistan. The State religion is Islam, Article 1. The religion of the Head of the State is Islam, that is also included in Article 1.

Then, Sir, Argentine Republic. The State religion is Roman Catholic, Apostolic Church, Article 2. The religion of the Head of the State is Catholic. This will be found in Article 77.

Bolivia. The State religion is Roman Catholic, Apostolic religion, Article 3.

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Then, Sir, Costa Rica. The State religion is Roman Catholic, Apostolic religion, Article 66.

Denmark. The State religion is Evangelical-Lutheran Church, Article 3.

Greece. The State religion is Eastern Orthodox Church of Christ, Articles 1 and 2.

Sir, I forgot to mention the religion of the Head of the State so far as Denmark is concerned. It is Evangelical-Lutheran Church, Article 5.

Now, Sir, Greece. The religion of the Head of the State is Eastern Orthodox Church of Christ, Article 47.

Iran. Jaffaria-Islam, recognizing 12 Imams, Article 1.

The religion of the Head of the State is Ja'fariya-Islam (recognising 12 Imams) (Article 1) ; Iraq : the State religion is Islam (Article 13) ; Ireland : the State religion is Christianity in the (Preamble) ; Hashemite Kingdom of Jordan, the State religion is Islam (Article 2) ; Norway, the State religion is Evangelical-Lutheran (Article 2), and the religion of the Head of the State is Evangelical-Lutheran (Article 4) ; Panama, the State religion is Catholic (Article 36) ; Paraguay, the State religion is Roman Catholic, Apostolic (Article 3) and the religion of the Head of the State is Roman Catholic Apostolic (Article 46) ; Saudi Arabia, the State religion is Islam (Article 6) and the religion of the Head of the State is Islam (Article 6) ; Spain, the State religion is Catholic (Article 6), Charter of Spanish People, July 16, 1945, and the religion of the Head of the State is Catholic (Article 1), Law of Succession to the Chief of State, June 7, 1947 ; Sweden, the religion of the Head of the State is Evangelical Faith (Article 2). In Syria, the religion of the Head of the State is Islam (Article 3) ; Thailand, the State religion is Buddhism (Article 7) and the religion of the Head of the State is Bhuddhism (Article 7). Then, Sir, in U. K. the State religion is Church of England (Article 3), Act of Settlement and the religion of the Head of the State is Church of England (Article 3), Act of Settlement.

Now, Sir, Mian Sahib is very much worried and bitter to see that the Basic Principles Committee Report gives the character of an Islamic Constitution which provides that the Head of the State shall be a Muslim. Sir, I would point out to him and also to my friends who have said that this State is going to be theocratic one. In this connection, Sir, I point out to them that in England the Church of England (with an Episcopal form of government) and in Scotland (with a Presbyterian form of government) are the "Established Religions". The inhabitants are almost entirely Christian, the exceptions being 4 lakh Jews and a small number of non-Christian immigrants. There has been no religious census since 1851. The Catholic Directory estimates the Roman Catholic population of England and Wales at 2,754,249 ; Scotland 721,300 ; Canada according to 1941 census 4,986,552, Australia in 1950, 1,387,833 ; South Africa, 488,799 and New Zealand in 1950, 204,287.

Now, Sir, it has been proved that this is not a new thing that has been formulated or provided in the Basic Principles Committee Report. Now it is only democratic and national that Islam which is the religion of 85 per cent. of population should be the religion of Pakistan ; its Head should be a Muslim. Sir, you will find from the list of names of the countries which I have just given before the House that every State has got its own State religion and it is even in U. K. So, this is not a new thing. In the Government of India Act, 1935, you will see in section 11 that even at

that time in India, the British Government had formed an Ecclesiastical Department. Why it is so ? May I ask from my honourable friends the reason underlying the provision or reason for providing this particular clause, namely, clause 11 in the Government of India Act, 1935. Sir, the clause reads like this. "The functions of the Governor-General with respect to defence and ecclesiastical affairs and with respect to external affairs, except the relations between the Federation and any part of His Majesty's dominions shall be exercised by him in his discretion, and his functions in or in relation to the tribal areas shall be similarly exercised." Sir, you will further find a provision to this effect which is this : "To assist him in the exercise of those functions the Governor-General may appoint counsellors, not exceeding three in number, whose salaries and conditions of service shall be such as may be prescribed by His Majesty in Council." So, Sir, you will find that a Department had been established in order to propagate, promulgate and to promote the religion of the Church of England. Again, Sir, I would refer to page 299 of the Government of India Act, 1935, Seventh Schedule (Legislative Lists). List 1 of the Federal Legislative List, wherein in Subject No. 4, you will find the Ecclesiastical affairs, including cemeteries. From this, it will also appear that the Governor-General at that time was given the discretionary power to spend money for the propagation of the religion to which the Church of England belongs ; namely, the Christianity. So this is a very fundamental principle of an Islamic State. I may for the present leave aside the discussion on the Objectives Resolution along with the Directive Principles which are State Policy and other parts which have dealt with in the Basic Principles Committee Report. For the present, Sir, I will deal with only one point, namely, that, clause 13 of the Basic Principles Committee Report provides that the Head of the State shall be a Muslim and should be elected at a joint sitting of both the Houses of the Federal Legislature. Now, Sir, Mian Sahib was very much bitter on this. Possibly his viewpoint was that the 15 per cent. of the population of the entire dominion is being denied the right of having a man of their community elected as the Head of the State. To prove this, in one breath you say it must be a democratic State and in another breath you say that you cannot deny certain rights to a certain section of the people, which means breathing hot and cold at the same time. This argument, Sir, to my mind does not hold good. If you say that it is undemocratic, I should say you are wrong ? It is democratic because 85 per cent. of the population belongs to the religion called Islam. Therefore, Sir, the religion of the State should be Islam. This is not a new thing. I have cited several instances from the Constitutions of different countries and shown that the religion of the majority of the country have declared their religion as the State religion. I have given the census figures of the different religious sections of the State of England and Wales and Scotland and Canada. If you say that their constitutions are based on democratic principles, then why do you not apply the very same principles in the case of Pakistan where 85 per cent. of the population are Muslims and they all belong to a religion which is called Islam. Why should not then Islam be the State religion. I really fail to understand this. To declare the Head of the State to be a Muslim is a fundamental principle. Now the basic idea behind it, the underlying idea behind it, could not be forgotten.

Now, Sir, certain passages from the speeches delivered by the Quaid-i-Azam from time to time have already been read before the House and I will read here and now certain passages from his speeches which will

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show that the Quaid-i-Azam definitely wanted that our Constitution should be based upon Islamic tenets and that it should be an Islamic State and nothing else. If you have taken a few sentences from here and there in order to prove that in the political arena a Muslim should cease to be a Muslim and a Hindu should cease to be a Hindu, it would not prove that he did not want Pakistan to be an Islamic State. I say that is not the correct reading of the speeches of Quaid-i-Azam. Now, Sir, as I said, I will read certain passages from the speeches delivered from time to time by the Quaid-i-Azam. But before I do that, I will just deal with the underlying principle of the Objectives Resolution that has been passed by this House. Now, Sir, what is the underlying principle that you find in the Objectives Resolution passed by this House ?

At this stage Mr. President vacated the Chair which was occupied by Mr. M. H. Gazder, a Member of the Panel of Chairmen.

Mr. Abdulla al-Mahmood : The Objectives Resolution is incorporated in the Preamble to the Basic Principles Committee Report. This resolution was passed on the 12th March, 1949. It reads as follows :—

“In the name of Allah, the Beneficent, the Merciful :

WHEREAS, sovereignty over the entire Universe belongs to God Almighty alone, and the authority which He has delegated to the State of Pakistan through its people for being exercised within the limits prescribed by Him is a sacred trust ;”

and so on and so forth.

Now, Sir, if the sovereignty belongs to Allah, then the power is to be exercised by the delegates who will be the chosen representatives of the people. This is very important so far as my argument is concerned. Now, Sir, we say that that was the idea behind formulating the Basic Principles Committee Report, namely, that the Head of the State shall be a Muslim. Some of my friends have also suggested that the State religion should be Islam and I suggest that this should be incorporated in the Report itself. Some of my friends feel shy in openly declaring the State to be an Islamic State. Well, if you are a Muslim, say frankly that you are a Muslim. Why do you not say this openly. I should say that it is hypocrisy. Say frankly whether or not it is a fundamental need of an Islamic Constitution based upon the Holy Quran and the Sunnah.

Now, Sir, I will read from the Indian Constitution the oath that is administered before assumption of office of the President. It is provided in the Constitution of India, I am referring to page 26, section 60. Here is how a President should take the oath. I do not want to deal with the other portion but I only take up the oath that is being administered at the time of assumption of office of the President. It reads :

“I, A. B., do swear in the name of God|solemnly affirm.....”.

Shri Dharendra Nath Datta (East Bengal : General) : Or solemnly affirm.

Mr. Abdulla al-Mahmood : My friend will please allow me to speak. Let him not be impatient. Let me read out that oath. I am not concealing

what has been incorporated in the so much pampered Constitution of India. It is a Constitution which you so much boast of. Even some of my friends are enamoured of the Constitution of India. Now, Sir, this is what the oath reads :

"I, A. B., do swear in the name of God|solemnly affirm.....".

Shri Dharendra Nath Datta : Or solemnly affirm.

Mr. Abdulla al-Mahmood : There is no word "or" here in the oath :

"that I will faithfully execute the office of the President (or discharge the functions of the President) of India and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well being of the people of India."

Sir, my friend is laughing. I know what pinches him. You proclaim to the people that you want a secular state. Here in this oath you find the mention of "God". We believe not only in God but we have unflinching faith and belief in the Holy Book which is the Book of God. Now I will read the oath that has been provided in the Basic Principles Committee Report :

"The Head of the State should be required to take the following oath :—

I,....., do swear in the name of God that I will faithfully discharge the duties of the office of (the Head of the State) of Pakistan according to law, that I will preserve, protect and defend the Constitution, that I will do right to all manner of people according to laws and usages of Pakistan without fear or favour, affection or ill-will and that, in my public and personal life, I will endeavour to fulfil the obligations and duties enjoined by the Holy Quran and the Sunnah."

I would most earnestly request my friends not to lose temper when they hear arguments which do not suit them. We have given them patient hearing. They should also listen to what we have to say. Now, Sir, we not only believe in God, but also believe in the Book that has been revealed to the Prophet. We are Mussalmans. Our belief is essence. What are our duties ? What we have to do in the discharge of our duties, in the discharge of our functions. All this is laid down in the Objectives Resolution ? The Objectives Resolution, Sir, mainly deals with the principles underlying the well-being of the people of the country. Sir, we have got unflinching belief and faith in the principles. We have not only to believe, not only to profess, but we must practise them. Therefore, Sir, the Head of the State should be a Muslim. The other day, I met Maulana Ehtasham-ul-Haque and discussed the whole matter with him. Some of my friends think that it is only a symbol. But it is not so ; it is fundamental like a power house generating electricity. The cables and wirings have been fitted. I am a Muslim. I believe in Allah. My religion is Islam. I want that proper bulb should be fitted so that the electricity, that is generated, should give proper light. Therefore, Sir, it is all the more necessary that we must have a Muslim as the Head of the State. The State religion, Sir, should be Islam, which is not a new thing as so many other countries have State religions, as I have already cited before this honourable House. Sir, I want to read a passage from a speech of late Quaid-i-Azam. The speech was delivered at a meeting of the Sind Bar Association, held on the occasion of the Prophet Day Celebrations on January 25th, 1948. The late lamented Quaid-i-Azam said :

"I cannot understand why this feeling of nervousness that the future constitution of Pakistan is going to be in conflict with Shariat Law ? There is

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one section of the people who keep on impressing everybody that the future constitution of Pakistan should be based on the Shariat. The other section deliberately want to create mischief and agitate that the Shariat Law must be scrapped.

"Islamic principles have no parallel. To-day they are as applicable in actual life as 1,300 years ago.

"Islam is not only a set of rituals, traditions and spiritual doctrines. Islam is a code for every Muslim which regulates his life and his conduct in all spheres, social, political, economic, etc."

This, Sir, is from the *Daily Gazette*, Karachi, dated January 27th, 1948. Now, Sir, there are hundreds of references like this in the speeches made by the Quaid-i-Azam since he undertook to mobilise ten crores of Muslims of Indian sub-continent. I do not like, however, to dilate on these points. Now I would come to some other provisions.

Mr. Chairman (Mr. M. H. Gazder) : This is general discussion of the Report.

Mr. Abdulla al-Mahmood : Yes, Sir, I know this is general discussion, and I am only making a general review of important sections....

Mr. Chairman (Mr. M. H. Gazder) : Basic principles only.

Mr. Abdulla al-Mahmood : Sir, you yourself have pointed out while you were speaking that some of the powers that have been given should not be given. I entirely agree.

Sir, what is the main thing underlying the Objectives Resolution ? The Objectives Resolution itself is a message of peace and love for the whole country. Wherever there is a difference in ideology, there is every chance of a conflict and they are now on the brink of destruction. There is likely to be a crash at any moment. On the one side, there is Imperialism and capitalism growing day by day ; on the other side, the Godless theory is gradually permeating through the entire social fabric of certain States. Now, Sir, these different ideologies are drawing the world nearer towards a state of revolution, which is going to shake the very foundations of the world's peace, love and amity and civilisation. Islam came to preach love and amity for the well-being of the entire humanity. Now, Sir, how can we achieve this well-being ? We can achieve that, not by professing alone, Sir. Mian Iftikharuddin has said "What have you done during the last six years" as if nothing has been done and hence nothing is to be started, nothing is to begin. Sir, even assuming for the sake of argument that nothing has been done, should we not make a start sincerely ; should we not propagate the religion and practice ? Does it require any proof ? Does it require any testing ? Further, it is a religion which has been tested by the turbulence and the torrents of the time, by the hurricane of the time, the devastation of the time and still there are 60 crores of Mussalmans living in the whole world now professing this religion. Has it not stood the Godless theory, the Godless theoretical tempests blowing from one end of the earth to the other ? Has it not stood the test of time ? Has not the European civilization tremendously gained by the civilization that has been given to the world by Islam ? Those who have read the History of Islam by Lane Poole know that he has said that but for the civilization that has been bestowed by the Muslims, by Islam, the whole Western world would have been wrapped in darkness for centuries more.

Now, Sir, my friends on this side—Prof. Chakraverty and some other friends—have also said that the system—the law, the custom—that was

in vogue or practised 1,300 years ago cannot suit in at the present time. Have we been able to establish a State based on the ideology of Islam? Here, after the establishment of the British rule, we have got some schools. Who gave the training; who received education in those schools? There are the hospitals. Who are treated in these hospitals? There are thousands of people who are dying of hunger, millions are illiterate, who have not got the chance to get the education; there are thousands of babies who have not got a drop of milk to drink. This is the state of things under a State which boasts of democracy and about two centuries of that rule has brought this country to the verge of starvation, illiteracy ignorance, disease and what not, Sir? Well, now you will have to start some time? Therefore, Sir, I would suggest to those who are responsible for solving this deadlock, whom I sincerely thank for resolving the deadlock and giving the country an opportunity to test their genuine desire, to test their sincerity when they promised before the country that they would evolve a State wherein the main object will be the well-being of the people to prove it by their action. How this well-being of the people can be achieved? Now, Sir, nowadays, as I have stated before the House, what do we find? Only those people who can afford to have medical aid get a chance to be treated in the hospital. Those people who are at the top, who have got money, who have got resources, can send their sons to school. Those people who have got money, who are drawing thousands of rupees as pay, it is those people who can afford to give their children education in the proper way they like. Is this the way that you want to build up an Islamic State? Is that the idea of achieving the well-being of the entire people? You must see that not a single baby dies for want of milk; not a man dies for want of proper medical aid. Therefore, Sir, the main object of an Islamic State is that no man would be found available to receive charity from others. This is the ideology that we should always keep in view. That ideology has been provided, that ideology—that target—has been provided in the Objectives Resolution as well as in the Directive Principles.

I would like, Sir, in this connection to say a few words about education. Sir, how can you build a State without proper education. Mian Iftikharuddin was speaking about the activities of some Ulemas in the year 1857. Sir, I would suggest before the Honourable Members today that a process, a system, of education should be evolved; the whole education system should be re-orientated. There is a class of learned men amongst Muslims who read, who interpret, who diagnose, who analyze every verse of the Quran in a way absolutely different from the way in which others do. I am an ignorant man and I do not know the inner significance of the Quranic verses or the Sunnah, whereas another gentleman, whom we call an "Alim" reads it from a different angle of vision. These two systems of education should be moulded in such a way that there is no clash, there is no conflict, there is mutual harmony between the two so that one will assimilate the other and the other will assimilate the one and a formula, a system, of education will have to be evolved in order to create the genius in our country to shoulder the responsibility of Pakistan in future. The Constitution which they are going to frame today is not intended for today or tomorrow, but it is going to be for our future generations, who will in their turn take the responsibility of educating their children and coming generations to give a final shape to what is meant by Islamic State.

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Sir, I would have liked that some of the provisions that have been provided in the directive principles should have gone in the operative portion. I would refer to paragraph 3 of Chapter II, which reads : An organisation should be set up for making the teachings of Islam known to the people and for *amar bil maruf wa nahi anil munkar*. The other one is that the State should endeavour to secure the basic necessities of life like food, clothing, housing, education and medical relief for those citizens of Pakistan, irrespective of caste or creed who are temporarily or permanently incapable of earning their livelihood, etc. I admit that these are our targets. These are our ideas. We will have to reach them and we will have to see that these are accomplished. Then I ask why a man should commit theft, when all the amenities of life are available to him. We find today that there are thousands and thousands who commit thefts for want of food, for nourishment and other reasons.

Mr. Ghyasuddin Pathan : Not always.

Mr. Abdulla al-Mahmood : I do not say always. Evidence might be otherwise. As my friend knows, we have got a sufficient number of years to our credit as practising lawyers. Therefore, I say such conditions will have to be created where there is no occasion for committing theft.

So, Sir, the future legislators in this House will have to give effect to these directions. They will have to face the people if they do not carry them out. I quite agree, but I want to go further. I want the Administration to take the responsibility upon themselves to do their best, within the shortest possible time, in this direction. Some one may say that it is a pious wish. Well, I admit, it is so, because it is not binding now. It cannot be enforced by law, but it will be forced by the people when the representatives would ask for vote. Therefore, Sir, some of the provisions that have been provided in the directive principles should have found place in the operative clause.

Now, Sir, as some of my friends have already suggested, the name of the State should be Islamic Republic of Pakistan, and I agree with them. Therefore, the following are my definite suggestions, namely, the State Religion should be Islam ; the Head of the State should be a Muslim ; and the State should be called the Islamic Republic of Pakistan.

Sir, as I have already pointed out before this House, the other provisions which find place in the Basic Principles Committee's Report deserve some comment and I would also like to offer certain suggestions. My friend, Mr. Abul Kasem Khan, a very intimate friend of mine, while he was speaking about the dual functions of the Constituent Assembly both as a constitution-making body and as a Legislature of Pakistan, said that there should not be anybody, not even in the Judiciary, to declare any provisions of the Constitution or Law as *ultra vires*, because it was argued that that body was a creation of this body.

Mr. Abul Kasem Khan (East Bengal : Muslim) : Sir, he has misunderstood it.

Mr. Chairman (Mr. M. H. Gazder) : Do you yield to him ?

Mr. Abdulla al-Mahmood : I may have not fully understood him, but, Sir, I read an essay appearing in the '*Spectator*' written by Addison to this effect. He should protest against it if applies to him and if it does not apply to him, he should not have protested against it.

Mr. Abul Kasem Khan : On a matter of personal explanation. My friend has misunderstood me.

Mr. Abdulla al-Mahmood : Do not take much of my time. I will take another hour.

Mr. Abul Kasem Khan : The Judiciary as an organ of the Government in the ultimate analysis and the Executive as a creature of the Legislature, should not be given the power of vetoing on Acts passed by the Legislature. I hope I have made myself clear to my friend.

Shri Dharendra Nath Datta : He has not heard you at all.

Mr. Abul Kasem Khan : I cannot help that.

Mr. Abdulla al-Mahmood : My friend Mr. D. N. Dutta will be well-advised to sit by his side, so that he could give him proper instructions. Mr. Nishtar at that time also interrupted. It is not becoming of that high body, I mean, Judiciary, to have the right to interpret the Constitution that is passed by this House. Do you remember what happened the other day in the Indian Constitution? Do not forget that please. I specially draw the attention of my honourable friends sitting on my right.

Now, Sir, when the zamindari was abolished by the Bihar Government, what happened? The zamindars brought a suit against the Provincial Government, because under the Indian Constitution zamindari could not be abolished they contended and they went up to the Supreme Court. The Supreme Court also held the same view.

They held the view that under the Indian Constitution the Bihar Government was not entitled to abolish zamindari. After the declaration of that section as *ultra vires* by the Federal Court, the Indian Assembly had to bring an amendment. On that occasion Dr. Shyama Prasad raised hue and cry and made fuss in the Parliament. History should not be forgotten so early. That is what I was saying with regard to the Federal Court.

Now Chapter III says that no legislation should be enacted which is repugnant to the Quran and Sunnah. It has been suggested that the Board of Ulema is nobody's baby. I would not like to use that term as my friend used it with contempt and called it Mulla Board. Most of my friends even pronounced the word with contempt. Do you know the meaning of the word "Mulla". The way they used the word brings humiliation to our society. Mulla means a graduate; an Alim. Anyway, my suggestion is that if there is any controversy that should be decided by the Federal Court. Some might say that that is impracticable. I do not believe that it is impracticable. There is no other alternative. The Legislature must have the paramount voice in passing enactments. If anything is repugnant to the Quran and Sunnah that case should go to the Federal Court. Let it be decided there. I do not think there should be any objection to accept the suggestion that if any enactment violates the Quran and Sunnah it should go to the Federal Court for final decision.

Shri Dharendra Nath Datta : It is better for us to postpone. He has not got spectacles and there is delay in his progress. Let him have his spectacles tomorrow.

Mr. Abdulla al-Mahmood : I am hurrying up as fast as possible.

Mr. Chairman (*Mr. M. H. Gazder*) : All right ! Go on.

Shri Dhirendra Nath Datta : It is difficult for him to go on.

Mr. Abdulla al-Mahmood : Both the Objectives Resolution and the demand behind the Pakistan movement was that the State would be given an Islamic character. This is an ideological State as distinguished from a national State. . . .

Shri Dhirendra Nath Datta : There is no quorum.

Mr. Chairman (*Mr. M. H. Gazder*) : Will you kindly take your seat ? Objection has been taken that there is no quorum.

Mr. Abdulla al-Mahmood : Quorum is there, Sir. There is only half an hour more. I will not finish today. I will take more time.

Mr. Chairman (*Mr. M. H. Gazder*) : You finish as much as you can today.

Mr. Abdulla al-Mahmood : As I have submitted before, all matters for final decision should go to the Federal Court where there is a question whether the provisions are or are not according to the Holy Quran and Sunnah. It is therefore necessary that paragraphs 4 to 6 should go.

Then, Sir, may I refer to the recent formula that was announced in the House some time back. There it has been said that the Head of the State should act on the advice of the Ministry and that that advice will be binding on the Head of the State. Sir, this provision should find place everywhere in all the provisions where the Head of the State has to accept the advice of the Ministry. Similar is the case with the head of the units. The provision, namely "during his pleasure" must go. If you want that democracy should exist ; if you want that parliamentary system should function then this thing must go both at the Centre with regard to the Head of the State and with regard to the head of the unit as well, Sir.

Now, Sir, with regard to another matter, namely appointment of the Chief Justice and other Judges of the Federal Court and the High Courts, Sir, it has been said and I entirely agree with those friends who have suggested this that the appointment of Chief Justice only should be done by the Head of the State and other Judges should be appointed by the Chief Justice. In case of the appointment of the Judges of High Court, I should like to suggest the same procedure as well.

Now, Sir, I come to the subjects that will be dealt with by the Federation and by the units or Provinces. On this while disagreeing entirely with Mian Sahib and some of my friends who have suggested or rather wanted to point out and possibly drew the attention of the Honourable Members to the resolution passed at Lahore saying that two separate States were visualized, I beg to submit that since we had occasion to know that really it was not visualized that several separate independent states should be created. Now as it would appear in the Objectives Resolution, while agreeing to form a federation, we must see that there is no chance of disintegration of the units. Therefore so much of power should vest in the Centre which will keep the Centre a strong one and no more. As Honourable Mr. Nurul Amin has pointed out and I think some of the constitutions, possibly that of Australia provide only

one list, I suggest that there should be only one list—the List of the Federation. Those subjects which the Federation will deal with should be contained in that list and as many subjects or so much of the subjects which will make Pakistan strong and which will lay its foundation on a solid and firm rock, without giving any chance to the units to disintegrate should be there. Some of my friends on the right have also suggested in their over-enthusiasm that units should have power to secede also. Sir, this must be borne in mind first that if Pakistan exists and then only the units would exist; first we should build up and strengthen Pakistan and then think of units. I would like that the units or Provinces should enjoy as much autonomy as is possible. We should keep in view that it does not in any way harm the foundation of Pakistan; its integrity or solidarity is not affected and then the largest autonomy, that is possible should be given to the units.

Sardar Shaukat Hyat Khan (Punjab : Muslim) : I think we should take rest as he reads.

Mr. Abdulla al-Mahmood : Now there should be no concurrent list as I have said.

Now, Sir, there is the question of separation of Judiciary from the Executive. Sir, this is not a new thing. So far as I am aware, Sir, it is a very old matter. The question of separation of Executive and the Judiciary is much older than even the emergence of the national organisation, namely as early as 1852. In fact public opinion in Bengal had begun to express itself in organized form as early as 1852. This movement gained ground and the leaders of public opinion ultimately put forward a definite proposal that Judiciary should be separated from the Executive. It has been said in the Directive Principles that it should be done in three years. Why should we put it there in the Directive Principles? Put it in the operative portion so that you may be bound to do it. It is not a matter of yesterday or today; it is a matter which is hanging fire for long long time since 1852. Now, Sir, not only politicians of all schools of thought but even retired officers who had actually spent their lives in the administration, look up the matter and lent their support to it. Even retired High Court Judges and Englishmen, like Sir Arthur Hobhouse and Sir Arthur Welson, both of whom subsequently became Members of the Judicial Committee of the Privy Council, lent their support to this and they jointly with many eminent Indians submitted a representation to the Secretary of State for India to give immediate effect to this reforms. In the year 1912 when the Public Service Commission was appointed, Sir Abdur Rahim, who was a Judge of the Madras High Court and was for many years the President of the Central Legislature of the late Government of India, appended a long minute of dissent and therein he devoted several pages to this very question. Therefore, Sir, this matter has been before the country for a century and it is time that it is given effect to immediately. So, Sir, I ask why do you keep it in the directive principles and take three years to enforce it. You should have kept it in the operative portion if you mean business, and if you want to give justice to the people. Justice delayed is justice denied. What is happening today. There is too much interference in every sphere. I do not want to cast any aspersions on anybody or on the Judiciary but the thing is, Sir, this matter has been recommended long long ago—in fact more than a century ago—and in that recommendation they had said that

[Mr. Abdulla al-Mahmood]

it should be done immediately. Separation of Judiciary from the Executive should be done immediately. But now that a century has gone but still nothing has been done. So, Sir, do not put it in the Directive Principles; put it in the operative portion and say "do it immediately and as early as possible".

Sir, paragraphs 163 and 195—I have already said about the appointment with regard to the Judges. Now, lastly the question pointed out by honourable Mr. Abul Kasem Khan, is paragraph 254. Here, Sir, a very careful examination is required.

Prof. Raj Kumar Chakraverty (East Bengal : General) : What is it ?

Mr. Abdulla al-Mahmood : Section 254—provision for the amendment of the Constitution. In paragraph 254, two different methods have been provided for amending the Constitution. It is really a unique provision. It is difficult to find a parallel in other countries. The procedure for the amendment should be such which should finally and fully ensure the growth of political institutions of the country and a procedure should be evolved which should strike middle course between extreme rigidity and extreme flexibility. Our constitution is weak on that point. Somebody said "why not have American constitution?" ; others said "why not have U. K. constitution?" In one there is responsibility and in the other there is stability. So, Sir, we have to follow a *via media* course and that is why I say that this provision needs a revision. In no case, two methods should be provided for, which will divide the provision of the Constitution into two different categories, more important and less important. Now, Sir, who is going to decide what is more important and what is less important. You will have to provide this also in the provision. Therefore, Sir, I feel that the Constitution of a country is a sacred document. Sir, I remember a case in Bengal when out of the whole Budget, only one demand could not be passed. On that point, the Ministry failed there. Therefore, Sir, it will have to be properly looked into because the Constitution is a sacred document, a very important document, for your future generations. You should evolve a procedure which will give assurance and ensure the amendment of the Constitution after due and thorough and careful consideration of those who will be coming in future. If this particular provision did not really suit to that occasion or situation, it will be changed.

Sir, so far as the formula is concerned, I do not like to comment on it.

Mr. Chairman (Mr. M. H. Gazder) : Please do not repeat.

Mr. Abdulla al-Mahmood : My friend, Mian Iftikharuddin, whilst speaking on behalf of Bengal, has not forgotten also to mention that West Pakistan has become really a loser. We did not view the formula in that spirit when it came before us. We have seen it and looked into it from the point of view of the greater interest of Pakistan. If it does not really stand the test of the needs of the people in the future, they will find out that formula that will suit them best.

Sir, I do not like any further to dilate elaborately by going through individual clauses, but, Sir, I would like to say and draw the attention of those honourable gentlemen, Honourable Ministers; who are at the helm

of affairs—though they will say there is no Minister in the Constituent Assembly—to the fact that for God's sake, mean business, do not play with the sentiments of the people, do not forget your promises given to the people, do not misguide the whole nation, do not forget the sacrifices made by lakhs of people for the sake of carving out a State which has got an ideology, *viz.*, that it will be an Islamic State.

Mr. Jnanendra Chandra Majumdar (East Bengal : General) :

*Mr. Chairman, Sir, much has been said about the B. P. C. Report we are considering. Many speakers have said from different angles of view. So, I was hesitating whether there is any necessity on my part to say anything more, but subsequently, I thought that I shall fail in my duty if I do not take this opportunity of making known in a general way my views about the general principles laid down in this Report, and also the views of my constituency as I know them. It is also my duty, Sir, to try to point out without any idea of fear or favour those principles which in my opinion, if adopted, may retard the healthy development of the country. Moreover, Sir, owing to some remarks made by some of the speakers, I thought that those remarks should not go unchallenged and should be answered. Besides, Sir, without repeating the arguments put forward by other speakers, I shall deal with only those aspects of the Report which have not yet been spoken about by others.

So, Sir, when the new compromise formula was made known, its effects on the people not belonging to the Muslim League group had been aptly described in one short sentence by Mr. Fazlul Haque, *viz.*, that it was a huge bluff on a confiding community. I think Mr. Fazlul Haque was not quite correct. He should have said that it was an attempt to create a huge bluff on a confiding community or more truly it was a colossal hoax on an obliging group of party members. From newspaper reports we find that all the other parties in East Bengal except the Muslim League have expressed their views against the compromise formula. We have also read in the *Pakistan Times* that the Punjab Legislative Assembly have been prematurely prorogued so that some prominent legislators of the Punjab Muslim League Parliamentary Party may not be able to ventilate and put forth their views in the Assembly criticising the new compromise formula. So, Sir, there is no unanimous acceptance of the compromise formula even amongst the Muslim League Party, not to speak of the whole community and there is no wonder about it because the new formula is based on the same principle as the Nazimuddin Report was based, namely, the parity between the East and West Pakistan zones. In the Nazimuddin Report the decision of the House of the People containing equal number of members from the East and West Pakistan would prevail whereas in the Mohammadali formula, the decision in the joint session of the House of Units and the House of the People containing the equal number of members from the two zones of Pakistan would prevail. So in both the formula the East and the West parity is the basis. When the Nazimuddin formula was published the Punjab raised their voice against parity. The same parity remains and no departure from the principle of parity has been made. Now, Sir, let us see what improvements or departure have been made in the Mohammad Ali formula. First, in this new formula no measure will be accepted even though it is passed by a majority unless it is supported by at least 30 per cent. of the

*Speech not corrected by the Honourable Member.

[Mr. Jnanendra Chandra Majumdar]

members of both the wings. The result may be that no Ministry may be removed by a vote of no-confidence even it be passed by a huge majority. Suppose a vote of no-confidence is passed in a joint session of the two Houses containing 350 members as laid down in the formula, of which 175 members will belong to each zone. 30 per cent. of 175 members of each zone works out to be about 52½. So if the no-confidence motion be passed by, say, 227 members against 123 members belonging to one of the zones, i.e., 70 per cent. of the members of the said zone, then the measure fails and will not be accepted and the Ministry shall not be required to resign. The alternative is that the Head of the State may dissolve the Legislature and call for a fresh election. But that also is to be done by the Head of the State on the advice of the same Prime Minister or Ministry according to the compromise formula against whom the no-confidence motion has been passed. And it is most likely that the Prime Minister may not give such advice and so he shall continue in office in spite of the passing of no-confidence motion by more than 100 votes. So, Sir, this is far worse than a simple parity and is bound to create deadlocks and rigid bottlenecks.

Then, Sir, each of the five regions will be given 10 seats in the Upper House. Here the principle of representation is based not on population but on the equality of numbers for each unit. Some of the units namely, Nos. 3, 4 and 5 comprise of sub-units. But the 10 seats of a unit comprising of sub-units will not be distributed equally amongst the sub-units but will be distributed according to the population of the sub-units. So the principle of equality for the Upper House has not been adopted in the case of sub-units.

Now, Sir, if all measures are to be passed by both Houses either separately or in a joint session, then where is the necessity of keeping two separate Houses? The two Houses may be amalgamated into one House, they may sit together and there will be much economy of time and unnecessary expenses for the luxury of having two Houses will be avoided.

Again, Sir, the two zones are separated by about 1,500 miles. They are not on the same level of development, economically, industrially, culturally and educationally. Their problems are not the same. The people of the two wings are different racially, ethnologically and socially and linguistically. Moreover, there are enough mutual suspicions and contradictions as is evident in the attempts for adjustments made in the B. P. C. Report or in the new formula. Only the two zones are afraid of each other's domination. Majority of the people have common religion. But only common religion is not a binding force now-a-days as can be found amongst the Muslim countries of the Middle East. In spite of their common religion, they are separate States. So, Sir, the best thing is to accept facts and the Centre should have a limited number of subjects and the two zones should be allowed to develop according to the genius of the people therein. As regards Islamic democracy, Islamic State and the so-called Mulla Board enough has been said. So I need not repeat. We can understand what connotes democracy, modern and Western Parliamentary democracy, democracy of the English, French or American variety. They are living examples. We are aware of the workings of these democracies. But as regards Islamic democracy where are the living examples? Nowhere in the Islamic States we find democracy. Only Turkey has adopted modern secular democracy.

Turkey has also declared itself as a secular State. Sir, by adopting Western democracy and separating religion from State and politics, it has made tremendous progress in every sphere.

Sir, Egypt is also trying to advance through the path of modern democracy. Let us see what General Naguib says about his country to be ruled according to the teachings of the Quran. I refer to a news item in the *Dawn* of November 29, 1952, wherein it is said that General Naguib while speaking on the birthday anniversary of Prophet Mohammad criticised those who wanted the country ruled in accordance with the teaching of the Quran. He urged them to apply those teachings to their own lives and actions. So, Sir, the two most advanced and oldest Muslim states have done away with the ideas such as Islamic democracy, Islamic State or with the idea of being ruled according to the teachings of the Quran. The Western Parliamentary democracy that has been included and adopted in the B. P. C. Report has been given certain concrete shape and form and we can see and judge it. But no such concrete shape and form has been given about the so-called Islamic democracy and such other high sounding phrases. We have no bias against Islamic, Christian, English or American system of democracy. Only we want to see and judge it in a concrete shape and form whether it suits us or not.

Mr. Chairman (*Mr. M. H. Gazder*) : Mr. Majumdar ! Will you take some more time ?

Mr. Jnanendra Chandra Majumdar : Yes.

Mr. Chairman (*Mr. M. H. Gazder*) : The House stands adjourned till 10 a.m. tomorrow.

The Assembly then adjourned till Ten of the Clock, in the Morning, on Friday, the 23rd October, 1953.

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